

# Official Report

*PROCEEDINGS AND DEBATES OF THE NATIONAL ASSEMBLY OF THE FIRST SESSION (2015-2016) OF THE ELEVENTH PARLIAMENT OF GUYANA UNDER THE CONSTITUTION OF THE CO-OPERATIVE REPUBLIC OF GUYANA HELD IN THE PARLIAMENT CHAMBER, PUBLIC BUILDINGS, BRICKDAM, GEORGETOWN*

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40<sup>TH</sup> Sitting

Monday, 18<sup>th</sup> July, 2016

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*The Assembly convened at 2.19 p.m.*

*Prayers*

*[Mr. Speaker in the Chair]*

## **ANNOUNCEMENTS BY THE SPEAKER**

### **Motion of Privilege**

**Mr. Speaker:** Hon. Members, you would recall that by a letter addressed to the Speaker dated 26<sup>th</sup> April, 2016, which was read to this House, the Hon. Member, Ms. Teixeira, drew a complaint to the attention of the Speaker. That complaint concerned remarks made during the budget debates in February of this year by the Hon. Minister of Natural Resources and, later, by the Hon. First Vice-President and Prime Minister, relating to the treatment of forest resources by the previous Government.

The Member, in her letter, requested the withdrawal of the remarks of which she complained and an apology from the two Hon. Members named in the complaint for, in the words of her letter:

“...misleading the House and the nation on February 11<sup>th</sup>, February 12<sup>th</sup> and May 4<sup>th</sup>, 2016”.

If the Hon. Members, against whom the complaint was laid, failed to act as requested, the letter continued, the Hon. Member, Ms Teixeira, would seek the Speaker's permission to send the matter to the Committee of Privileges for misleading the House.

The allegedly offending remarks were first made during the budget debates on 11<sup>th</sup> and 12<sup>th</sup> February, 2016, and as stated by the Hon. Minister of Natural Resources, during the course of his delivery, the remarks were taken from a report which was prepared by the Guyana Forestry Commission (GFC), the agency of Government responsible for the management of and for reporting on the state of the forest resources of Guyana.

The Hon. Minister of Natural Resources, under whose portfolio the Guyana Forestry Commission falls, said that he had directed that the report be prepared and that he relied on the report. On the very date on which the remarks complained of were delivered, copies of the document from the Guyana Forestry Commission were given to the Hon. Member, who made the complaint, and to all other Members of the House who were interested in the complaint. There was no challenge to the integrity of the document which was distributed.

The matter next engaged the attention of the House after a *hiatus* of over two months, through the letter of 26<sup>th</sup> April, 2016, to which I referred earlier. That letter saw some discussions on the floor of the House on 4<sup>th</sup> May, 2016.

I pause in my narrative to state that that letter of 26<sup>th</sup> April, 2016, was a letter of complaint by one Member against remarks made by other Hon. Members. The letter did not seek, at that time, to engage the discretion of the Speaker for action to be taken in relation to an alleged breach of privilege, and any view to the contrary is wholly mistaken. The action of the Speaker in this regard can bear no parallel with any other matter which may in the future engage, or is presently engaging, the Speaker. In the face of the complaint, aforesaid, which was being formally made for the first time by the Hon. Member, Ms Teixeira, the Speaker invited the Hon. Minister, Mr. Trotman, to consider the complaint of misleading the House levelled against him and the request for a withdrawal of the remarks complained of and for an apology from the Hon. Minister for his alleged misleading statement.

At the conclusion of the discussion which ensued on this matter on the floor of the National Assembly on 4<sup>th</sup> May, 2016, it was clear to the House and to the Hon. Member, Ms Teixeira, that the Hon. Minister, Mr. Trotman, was not prepared to offer in this honourable House either apology or withdrawal. The Hon. Minister presented that the complaint of the Hon.

Member, Ms Teixeira, was without merit and was ill-deserving of any such action from him. In the face of this response, the Hon. Member, Ms Teixeira, was left to determine whether there would be any further action on her part, and if so, what would commend itself to the Hon. Member as an alternative course of action. That alternative course of action is the letter of 24<sup>th</sup> May, 2016 in which the Hon. Member, Ms. Teixeira, is seeking permission, in accordance with Standing Order No. 32 (2), to bring a motion asking that the Hon. First Vice-President and Prime Minister and the Hon. Minister of Natural Resources be sent to the Committee of Privileges for misleading the House and the nation on 11<sup>th</sup> and 12<sup>th</sup> February and 4<sup>th</sup> May, 2016. Attached to the letter of 24<sup>th</sup> May, 2016, which was addressed to the Speaker, was the “Motion of Privilege”.

In the circumstances of the letter of 24<sup>th</sup> May, 2016, the Speaker held himself in duty bound to determine whether the letter and the motion, taken together, had established a *prima facie* case of a breach of privilege, so that the Hon. Members could be taken before the Committee of Privileges. I hold the test as to whether there exists a *prima facie* case to be one in which the facts and circumstances complained of ...**[Interruption]**

Hon. Member, Ms. Teixeira, I must ask you to read the motion to the House.

**Ms. Teixeira:** Thank you Mr. Speaker. The motion was submitted and received by the Parliament Office on 12<sup>th</sup> May, 2016. The motion goes as follow:

“WHEREAS the Hon. Minister of Natural Resources, Minister R. Trotman, in his budget speech on February 11, 2016, stated that ‘Much to our horror, we discovered on assuming office, that when asked about total production forest areas available in Guyana, all 100 %, have been given out. It is unimaginable.’ (See page 95 Hansard, February 11, 2016, 27th Sitting);

AND WHEREAS the Hon. Prime Minister Moses Nagamootoo when he spoke on February 12, 2016, in response to the Leader of the Opposition, Hon. Dr. Bharrat Jagdeo's rebuttal to this accusation, stated ‘I have here, which I shall share with the House, that the report has that the total production area allocated by GFC was 7,027,840 hectares, in terms of percentage of state forest, that is the 100 %. This is what this report states. In terms of the percentage of state forest, that is the production area - 56 %. What is stated here, and the Hon. Member said that when he referred to the 25 % ‘unallocated state forest estate’ — 5,548,363 hectares. Now that is

unexplored forest land. That is not productive forest land, but it is the unexplored..... it is the productive land they hived off - 100% - of all of our precious forestry land'. (Hansard, February 12, 2016, 28th sitting, pages 55- 56);

AND WHEREAS according to the Guyana Forestry Commission - Guyana REDD+ Monitoring Reporting and Verification System (MRVS) Year 5 interim measures report, 1 January, 2014 – 31 December, 2014, dated November 30, 2015 (see [www.forestry.gov.gy](http://www.forestry.gov.gy)) Guyana's forest area, including the State Forests, is 18,483,000 hectares ( see page 2 and Table 2-1 page 5);

AND WHEREAS the Guyana Forestry Commission's official website provides information on the State Forest Allocations as at February 2016, which documents that the total State Forest Estate is 12,594,00 hectares of which 7,181,923 hectares have been allocated between 1985 and 2015 and 5,412,077 is remaining as Unallocated State Forest Estate;

AND WHEREAS the Guyana Forestry Commission's website also posts the Allocation of State Forest to Concession Holders (Guyanese and foreign) which advises by various categories the allocations by type of permit/license;

AND WHEREAS the Hon. Minister of Natural Resources, as the sectoral Minister with responsibility for forestry and the Guyana Forestry Commission, should have known that this information is publicly available and that he knowingly misled the House on February 11, 2016;

AND WHEREAS the Hon. Minister of Natural Resources and the Hon. Prime Minister at the May 4<sup>th</sup> Sitting of the National Assembly could have apologised and could have withdrawn their erroneous statements but they proceeded to continue to hold fast to their positions in the face of evidence to the contrary;

AND WHEREAS the Minister of Natural Resources on the same day stated that 'I have a document provided by the Guyana Forestry Commission on which I said I relied on then and I do rely on today' which he circulated to support his allegation which, in fact did him no service as the document marked Exhibit A corroborates the opposition's position that the total area of lands classified as State Forests is 12,594,000 and the total unallocated state forest lands is 5,548,363 hectares;

AND WHEREAS the Prime Minister, in his response on May 4<sup>th</sup>, stated the former government had given away ‘100% of the productive areas of land in Guyana’;

BE IT RESOLVED that the Prime Minister Nagamootoo and the Minister of Natural Resources be taken to the Privilege Committee for misleading the House and the nation.”

Thank you Sir.

**Mr. Speaker:** I thank the Hon. Member for her statement.

**Ms. Teixeira:** My motion Sir. It is not a statement.

**Mr. Speaker:** I thank the Hon. Member for her motion.

Hon. Members, I will resume my presentation to you.

In the circumstances of the letter of 24<sup>th</sup> May, 2016, the Speaker held himself in duty bound to determine whether the letter and the motion, taken together, establish a *prima facie* case of a breach of privilege, so that the Hon. Members be taken before the Committee of Privileges. I hold the test as to whether there exists a *prima facie* case to be one in which the facts and circumstances complained of stand to support the wrong complained of, without the assistance of any additional information.

2.34 p.m.

I have examined the letter of 24<sup>th</sup> May, 2016 and the other relevant documents and have concluded that the *prima facie* case of a breach of privilege has not been made. In the circumstances, the request and motion of 24<sup>th</sup>, May, 2016 are disallowed.

*Motion disallowed.*

### **Leave from Sitting**

**Mr. Speaker:** Hon. Members, leave from today’s Sitting has been granted to the Hon. Member, Mr. Cornel Damon.

### **PRESENTATION OF PAPERS AND REPORTS**

The following report was laid:

- (1) The Audited Financial Statements of the Government Information Agency for the year ended 31<sup>st</sup> December, 2010. [*First Vice-President and Prime Minister*]

## **REPORTS FROM COMMITTEES**

The following report was laid:

- (1) The second Report of the Committee on Appointments in relation the Appointment of a Director and Deputy Director of the Financial Intelligence Unit (FIU) within the Anti-Money Laundering and Countering of Financing of Terrorism Authority (AML/CFT) Act No.1/2015. [*Minister of Public Health, Chairman of the Committee on Appointments*]

**Ms. Teixeira:** Mr. Speaker, could I crave your indulgence please. There is no motion for the FIU, there is only a report. I have no objections to debating the report, but the motion would have to come to this House to be debated. That has been the practice on the Rights Commissions, the Local Government Commission, as well as the FIU.

**Mr. Speaker:** I thank the Hon. Member. Hon. Members, I am given to understand that there is a Supplementary Order Paper which will soon be brought to the House, treating with the motion, to which the Hon. Member referred to a few minutes ago. We will proceed with our work, and, at an appropriate time, that motion will be put to the House.

**Ms. Teixeira:** Mr. Speaker, if you would allow me and indulge me, please. We recognise the importance of the motion and the report coming here. We were in the Committee up to last Wednesday. However we were given no notice, no copy of the report or the motion because it had a lot of amendments in the Committee. Usually, we would get an electronic version and hard copies over the weekend because we appreciate the haste. But we are now seeing the report, as amended, and there is no motion.

Sir, I find that this is highly irregular. I remember in this same House, committee reports had to wait at least a day before it came into this House. Sir, we have none of our files here and we are going to have to speak just how we are. There was no alert and we get everything electronically. Why in this case, on this matter, nothing?

Sir, we will debate anything you put before us, but we are not going to be silent that this manner of doing things is unacceptable. We finished on Wednesday, the report and motion, as I understand, was finished on Friday. Why did Members of this House, on both sides, not

get the motion and report electronically, if it was rushed, and/or hard copies to our houses? That has happened before and we have accepted that. Thank you.

**Mr. Speaker:** I Thank the Hon. Member for her comments. Hon. Minister Ally, you have the floor.

**Minister of Social Cohesion and Government Chief Whip [Ms. Ally]:** Thank you Mr. Speaker. I would just like to assure this House that it was not intentional for the motion not to have come here. But I think there was a medical problem with a staff member. Apart from that, I think that all Members of the Committee were present, they agreed with the motion. The Chairman of the Committee on Appointments had signed the motion, but, unfortunately, it was not circulated. So that is the explanation.

**Mr. Speaker:** Thank you very much.

## **PUBLIC BUSINESS**

### **GOVERNMENT'S BUSINESS**

#### **BILLS - Second Readings**

#### **WILDLIFE CONSERVATION AND MANAGEMENT BILL 2016 – Bill No.14/2016**

A Bill intituled:

“AN ACT to provide for the protection, conservation, management, sustainable use and internal and external trade of Guyana’s wildlife.” *[Minister of Natural Resources]*

**Mr. Speaker:** Hon. Members, we will now proceed with the second reading of the Wildlife Conservation and Management Bill – Bill No. 14/2016 published on the 10<sup>th</sup> May, 2016.

**Minister of Natural Resources [Mr. Trotman]:** Sir, if it pleases you, I wish to defer the second reading of this Bill until a date to be named. Thank you.

**Mr. Speaker:** Thank you Hon. Minister.

*Reading of the Bill deferred.*

#### **TELECOMMUNICATIONS BILL 2016 – Bill No. 15/2016**

A Bill intituled:

“AN ACT to provide for the establishment of the Telecommunications Agency and for a regular, coordinated, open and competitive telecommunications sector and for connected matters.” *[Minister of Public Telecommunications]*

**Mr. Speaker:** Hon. Members, we will now proceed with the second reading of the Telecommunications Bill 2016 – Bill No. 15/ 2016 published on the 24<sup>th</sup> May, 2016.

**Minister of Public Telecommunications [Ms. Hughes]:** Mr. Speaker and Hon. Members, I rise to move the second reading of the Telecommunications Bill – Bill No. 15/2016.

This Telecommunications Bill is a most significant and tangible indication of the commitment of the Government to the progress and development of our country, as we recognise the tremendous and increasing impact that the telecommunications sector has on the advancement of economies and societies around the world.

This Bill is a major breakthrough for the telecommunications sector in Guyana. It has long been promised and I am indeed proud to present the Bill for debate and passage by this honourable House.

At this point in time, I do want to give credit and gratitude to the Members on both sides of this House, who worked very hard in the last Parliament to ensure that we could bring this Bill to this floor this afternoon.

The Government recognises the potential of information and communication technology (ICT) to be the transformational agent for the overall improvement of our citizens and the building of a 21<sup>st</sup> century economy. Critical to this improvement, therefore, is the creation of a telecommunications sector that is competitive and flexible enough to meet the needs of a modern, rapidly evolving technological environment.

This transition is long overdue. Our telecommunications sector must be an open one so that Guyana could progress in this area of service provision and delivery and not lag behind other sister Caribbean Community (CARICOM) countries and most of the rest of the world. Let me assure this House and the nation as a whole that the Government’s focus and commitment to this process is absolute and unconditional.



We, therefore, believe that this eagerly anticipated landmark legislation will provide for the fostering of an open, competitive telecommunications sector, where new market entrants and investors, large and small, would be inspired and attracted to invest in the sector. The Bill also creates a fair competitive environment for sector participants that would result in more choices for consumers, access to reliable, competitively priced, better quality and advanced telecommunication services.

*2.49 p.m.*

The intention of this Bill, therefore, is carefully and clearly set out in its Long Title to be:

“AN ACT to provide for the establishment of the Telecommunications Agency and for a regular, coordinated, open, competitive telecommunications sector and for connected matters.”

The several clauses of the Bill have been carefully drafted and firmly establish that this is the most forward-looking piece of legislation designed to set Guyana firmly and fully on par with most of the developed countries of the world in the provision of telecommunications services.

This Bill is being presented along with a consolidated Public Utilities Commission (PUC) Bill 2016. These two Bills complement each other to present a thorough and carefully crafted legislative framework to facilitate robust growth in a competitive telecommunications sector on a level playing field basis and in an atmosphere of fair regulation.

Hon. Members, you will recognise many portions of this Bill as there have been previous attempts to have a new telecommunications bill passed by this honourable House in the Ninth and the Tenth Parliaments. Hon. Members, I ask you to note that this Bill, in its current form, emerged from deliberations of the Special Select Committee that was convened during the Tenth Parliament to review the Bill and present it in that Parliament.

The Special Select Committee was most efficiently and diligently chaired by the Hon. Minister Carl Greenidge. The other Members of the Committee were Hon. Minister Joseph Harmon, Hon. Minister Mr. Keith Scott, Mr. James Bond, Mr. Trevor Williams, former Prime Minister Samuel Hinds, Mr. Manzoor Nadir, Mr. Robeson Benn and Mr. Irfaan Ali.

The Bill was thoroughly examined by the Special Select Committee, during the Tenth Parliament, over a period of several months. The Special Select Committee conducted a

holistic review of the Bill and also conducted a detailed clause by clause review of the Bill, considering intent, purpose, impact and content of each clause.

The Committee received detailed technical advice and it considered numerous relevant reports and articles from stakeholders in Guyana, other territories and international organisations. The telecommunications operators, the Public Utilities Commission, the National Frequency Management Unit (NFMU), the consumer representative bodies, stakeholders and the general public were all invited to submit written and oral comments on the Bills.

The Committee received written submissions from the Guyana Telephone and Telegraph Company Ltd. (GT&T), DIGICEL Guyana, the Public Utilities Commission, BrainStreet Group, the Guyana Consumers' Association (GCA) and the University of Guyana (UG). Detailed oral presentations were also received from GT&T, DIGICEL Guyana and the Guyana Consumers' Association. The Committee took into consideration all of the comments that were presented to it.

It is my understanding that it was the general feeling of Members of the Committee that the work of the Committee was conducted in a collaborative and productive manner and resulted in revisions to the Bills that were generally accepted by Members of the Committee.

It is my understanding, also, that by the time of the dissolution of the Tenth Parliament and the subsequent lapsing of the Bills, what remained to be done with the Bills was the drafting, in legislative language, of the revision decided upon by the Committee.

After assuming Office, my Government caused the numerous changes made by the Special Select Committee of the Tenth Parliament to now be incorporated into the Bill with the result that we now have before this most honourable House, a Telecommunications Bill that represents in-depth consultation with stakeholders and participation of both sides of the House in its preparation.

The principal underpinnings of this Bill are those of transparency, non-discrimination, level playing field and fair competition. This Bill establishes a modern regime which takes account of international best practices and tried and tested regimes. It draws particularly from laws and experiences in our sister Caribbean Community (CARICOM) countries, including Trinidad and Tobago and Jamaica, and the Organisation of Eastern Caribbean States (OECS) countries. It would be supplemented by significant detailed regulations in seven areas:

licencing and spectrum authorisation, pricing, spectrum management, interconnection and access, universal access service, telecommunications-related competition matters, and telecommunications-related consumer protection matters.

Also being prepared are model licences for the main types of networks and services that may be licenced under the new law, thereby creating a comprehensive framework for even a greater level of fair play among operators and service providers.

It will create the framework for an open competitive sector without exclusivity for any type of telecommunication network or service. It will address the expansion of telecommunications networks and services into un-served and underserved areas and regions of Guyana.

Much effort has been put into the design of this legislation to ensure that it is effective and that it can be implemented as early as possible. The Bill enshrines the characteristics of transparency and non-discrimination in the issuances and regulation of licences and frequency authorisations, seamless interconnection and access between and among telecommunication networks and services at cost-based pricing and price regulation, where required, to ensure fair competition and safeguards to consumer.

The Bill provides for regulation to ensure that consumers receive good quality services. This new law will allow us to more easily meet the growing demand for various types of data, intensive services and video services at high speeds in Guyana.

Mr. Speaker and Hon. Members, I now wish to put to you, in a little more detail, some specific content of the Bill. The Bill comprises 14 parts with 95 clauses. Part 1 provides the usual preliminary provisions. Part II provides for the establishment of the Telecommunication Agency, into which the National Frequency Management Unit would be incorporated, and which would function as the technical regulator of the sector responsible for regulating licencing, frequency spectrum and other technical areas and matters, and for administering the universal service/universal access programme.

Under this Bill and the consolidated Public Utilities Commission Bill, the Public Utilities Commission will continue to function as the economic regulator of the sector, with responsibility for ensuring a competitive environment, interconnection and access, consumer protection and fair, reasonable and non-discriminatory prices.

The functions of the Agency will be discharged by a Board of nine members, appointed by the Minister, and comprise three persons named by the Minister, one of whom shall be designated by the Minister as Chairman of the Board; two persons named by the Leader of the Opposition after consultation with the Opposition parties in the National *ex officio* Assembly; the Director of Telecommunications Agency; one person named by the private sector; one person named by the consumer bodies and one person named by the Vice-Chancellor of the University of Guyana, all of whom shall be voting members. The Corporate Secretary of the agency shall be an *ex officio* member of the Board without the right to vote.

Hon. Members, you would see that the construct of the Board allows for wide and broad-based representation.

The officers of the Agency would be a Director of Telecommunications, who shall be appointed by the Minister; the Heads of Division, designated and appointed by the Board with the approval of the Minister; and a Corporate Secretary appointed by the Minister.

Part III states and distinguishes among the functions of the Minister, the Telecommunications Agency and the Public Utilities Commission. The Minister, acting on the advice and recommendations of the Agency, will be responsible for matters such as developing policy, the determination of what types of networks and services require licences, the granting or denying of applications for licences and frequency authorisations, the making of legislations, the overseeing of the new Telecommunications Agency and the representation of Guyana's telecommunications interests internationally.

The Telecommunications Agency, the technical regulator, will be responsible for such matters as implementing the Minister's policy directives, receiving, reviewing, and making recommendations on applications for licences and frequency authorisations, advising and supporting the Minister on matters related to policy, licences, spectrum, and international relations, monitoring and enforcing compliance with licences and frequency allocations, managing the spectrum, which is the plan, supervise, regulate, monitor harmful interference and other technical aspects of telecommunications, including numbers, and administering the universal fund and universal access and services programme.

The PUC, the economic regulator, functions will include regulating wholesale and retail prices for telecommunications networks and services, regulating interconnection and access, regulating number portability and equal access, enforcing competitive safeguards, resolving

disputes involving operators and service providers, protecting consumers and resolving disputes between consumers and service providers.

Part IV presents the new licencing provisions and frequency authorisations.

The guiding principles of the new licencing provisions are public networks and services will have to be licenced. A separate licence or licence amendment is required to land and operate a cable carrying international traffic to and from Guyana. No licences will be required for networks services used solely within a company and not being operated to provide public telecommunications services. These are referred to, within the Bill, as private networks and services.

The Minister will have broad authority for the determination of which networks and services are public in nature.

Frequency authorisations will be required for the use of the spectrum and the operation of radio communication equipment, except if exempted by order promulgated by the Minister; for example, the use by the general public of wireless consumer products.

This new framework contemplates three types of licences. Individual licences will be required to operate a public telecommunications network or provide public telecommunication services.

Class licences may be authorised for certain public telecommunications networks and certain public telecommunications services, the determination of which is the responsibility of the Minister.

#### *3.04 p.m.*

Special licences and related frequency authorisations would be permitted in emergencies and other exigent circumstances for demonstration and/or testing and other short-term situations. These would be valid for 10 days and would be renewable for good cause. The Minister is responsible for the determination of networks and services, which may be exempt from requiring a licence, and these would be designated in orders after consultation with stakeholders. Dealer permits would be required for the sale or other transfer or programming or other modification of radio communication equipment.

The material terms and conditions of licences and frequency authorisations include the following features: the terms and conditions would be transparent and non-discriminatory. The concept of a level playing field for all licensees would be established. The Agency recommends licencing and the Minister approves or denies the application after a public comment period. The obligations attached to licences and frequency authorisations include requirement to comply with the Act, the regulations, the telecommunications code and other relevant laws. There are restrictions on assignment, sale or transfer of ownership and there is a requirement to pay fees.

The obligations attached to frequency authorisations include: the requirement for authorisation holders to respect the technical parameters of frequencies assigned and to adhere to authorised frequency bands.

There are also, in Part IV, clauses dealing with the suspension or termination of licences and frequency authorisations, amendments to licences and frequency authorisations and renewal of licences and frequency authorisations. The provisions of acts, regulations and telecommunications code would apply to all ships, aircraft and other vessels registered in Guyana and that use of the spectrum and radiocommunication equipment. As is the common and as is universal practice, authorisation is not required for ships, aircraft and other vehicles that are not registered in Guyana, while operating in the territorial waters and airspace of Guyana, so long as they have a valid frequency authorisation issued by a foreign governmental authority in accordance with international agreements. However, these would be under the jurisdiction of our Telecommunications Agency while in Guyana.

In Part V, the clauses which deal with prices and dominance could be found. With respect to price regulations, the principles are: prices for public telecommunications services are to be set by market participants on the basis of supply and demand. Price regulation would only be imposed in cases of service provision by a sole provider, in cases of dominance or where there is a proven anti-competitive cross-subsidisation or other anti-competitive or unfair behaviour. Wholesale prices to be agreed between parties with recourse to the Public Utilities Commission, where there is a failure by the parties to agree on a price or in the case of another dispute, could take place. Price regulations would be within a framework designed to ensure transparency, non-discrimination, fairness and to provide certainty for consumers and market participants alike. The provisions provide clarity for implementation by the regulator, operators and service providers.

Part VI provides for interconnection and access. These provisions encompass interconnection of public telecommunications networks, access to facilities of telecommunications operators and service providers, access to utility installations of other public utilities, for example, GPL and *vice versa*; collocation of telecommunications facilities and public utility installations, for example, utility poles, conduits, physical space in a telephone company's switching centre, *et cetera*. These provisions, supplemented by the regulations, create a comprehensive, detailed and enforceable set of rules for interconnection and access between and among operators and service providers. For example, operators would be obliged to provide interconnection and access and the PUC would be required to mandate the terms of that interconnection and access if operators and service providers do not reach agreement on terms within a specified timeframe.

Parts V and VI, which contain the provisions relating to prices, dominance, interconnection and access, go to the core of regulating an open telecommunications market. It is a question of finding the appropriate weight of hand in regulation in the given circumstances - not too heavy and stifling and yet not too light so that new entrants are kept out. There are also issues with the timing of the implementation of various provisions. The law allows the Minister some judgment in bringing certain provisions into force, such as those related to collocation and number portability.

Part VII contains the provision relating to universal service and universal access. These provisions ensure access to telecommunications networks and services for all citizens, irrespective of where they live or their income, contribute to the economic and social development of Guyana, promote information-based allocations in education, health or other key public sectors, and promote technology innovation and competition in the sector. Projects to be addressed under these provisions are required to be identified and implemented in an objective, transparent, non-discriminatory and technology neutral manner. Such projects would be eligible for subsidies from the Universal Fund, to which all licenced telecommunications operators and service providers would be required to contribute a fixed percentage of their annual gross income.

Part VIII contains the provisions relating to spectrum management and numbering and domain name management. The general principles that relate to spectrum management are: spectrum would be allocated based on a published plan and assigned in a manner to ensure its efficient use, to take into account the likely impact on current and future spectrum

requirements in Guyana, and to comply with Guyana's international, regional and bilateral obligations.

Two types of fees are permitted, and would be established by the Agency – the authorisation fee and the usage fee. The Agency would monitor harmful interference and may enter and inspect and order users to suspend operation of any equipment that causes interference.

Part IX deals with the terminal equipment, other equipment, testing and technical standards. Agency certification of equipment to be connected to a telecommunications network is required. The Agency may use type approvals for other jurisdictions as for the basis for certification.

Part X speaks to the requirements concerning providing information, reporting and inspection to the extent required for effective sector regulation and planning and in the interest and pursuit of national security and, of course, the preservation of law and order. The Agency may, after the issuance of a warrant, enter and search premises and seize equipment and other items that are being used illegally.

Part XI contains provisions governing the breaking up of streets, removal of obstructions and access to land for installation of telecommunications facilities on public and private lands the and cutting of tress and boughs.

Part XII sets out the offences provisions. These include offences and corresponding fines and other penalties for contravention of major provisions of the Act. Fines range from \$250,000 to \$5,000,000. The Agency and the PUC are authorised to levy fines on persons who contravene the Act and regulations.

Part XIII sets out the types of fees which would be charged by the Agency for issuance and renewal of licences and frequency authorisation, for the performance of its other functions, and what they should take account of, and that they should be published in the regulations or the telecommunications code. The general principle is that fees would be commensurate with the cost of carrying out the functions of the agency and administering licences, authorisations and permits. However, frequency spectrum usage fees do not have to be based on the cost of administering the frequency authorisations.

Part XIV - General and Transitional Provisions - brings together provisions relating to international obligations, national security, public order and the transitional arrangements.



The provisions relating to safeguarding national security and public order provide that the Minister may take any action deemed appropriate, regarding telecommunications networks or services operated or provided from outside Guyana. If they compete unfairly or otherwise jeopardise networks or services provided inside Guyana or between Guyana and another country, or are contrary to public interest, national security or public order, where required by national security, public order or a state of emergency, the President or Minister may take control of telecommunications networks or services.

The transitional provisions are designed to: provide for an orderly transition from the existing legal regime to the new one; amend some existing laws to harmonise with the new Telecommunications Act, for example, Competition and Fair Trading Act, the Post and the Telegraph Act; repeal the Guyana National Frequency Management Unit Order 1990, which established the National Frequency Management Unit, and transfer all NFMU assets, contracts, liabilities, *et cetera*, to the Agency - employees would be not transferred, but may apply for employment with Agency; repeal the Telecommunications Act 1990 and the provisions of the Post and Telegraph Act under which permits to use the spectrum have been issued; provide for issuance of new licences and frequency authorisations on the appointed day to holders of licences and frequency authorisations on the same date that Act becomes effective; and save any other licences and spectrum use permits issued under the old legal regime, but require persons holding such licences and permits to apply for new ones under the new Telecommunications Act within a specified period after it come into effect.

*3.19 p.m.*

That is, of course, a period of 90 days.

Provision is also made for persons engaged in telecommunications activities without a licence issued under the Telecommunications Act of 1990, to apply for licences within the 90-day period and save current NFMU fee tables and frequency allocation tables until such time as they are replaced by new fee requirements and a spectrum plan under the new legislation.

The Bill also contains provisions relating to competitive safeguards that allow the identification and penalising of anti-competitive behaviour by any telecommunications undertaking and designating which telecommunications undertakings are dominant or jointly dominant and identifying and penalising abuses for those positions should they occur. These

provisions allow the PUC to exercise jurisdiction in relation to telecommunication related competition matters under its purview.

Provisions relating to consumer protection are also built into the new Telecommunications Bill, with the requirement for operators and service providers to safeguard the confidentiality of consumer information, the assurance of fair and reasonable prices to consumers and the requirement to safeguard quality service standards and to develop a consumer code of practice.

Mr. Speaker and Members of this most honourable House, in my hand are all the Reports of the Select Committee hearings. As you can see, used incorrectly they could be quite dangerous and damaging. Therefore, I say that any suggestion that there has been no consultation on this Bill is clearly very inaccurate. I am happy and proud to have been able to present this Bill and, as I said at the start, this Bill is the work of both sides of this House and we should be proud that we were able to work together to come up with such an excellent piece of legislation. I again thank all the parties and all the Hon. Members who worked in the Select Committee.

This Bill is a very important one. Guyana cannot waste any more time lagging behind when it comes to information communication technologies. The Bill is one that is awaited with much anticipation by all Guyanese. It will guarantee that we get better service. I urge its passage through this honourable House at the earliest time. Thank you very much. *[Applause]*

**Mr. Ali:** Mr. Speaker, perhaps, giving the history of this Bill was a necessary step by the Hon. Minister, but there are some aspects of that history that was excluded, but I would rather believe that those aspects were overlooked. I would like to relook at some aspects of that history. The Hon. Minister Carl Greenidge, the Hon. Minister Joseph Harmon and I are the three Members of that Select Committee who are in this Parliament.

Perhaps, more importantly, the Hon. Carl Greenidge holds a special place as we debate this Bill because today he came full circle. The Hon. Member was the Minister of Finance when there was this monopolistic privatisation of this entity. Today, the Hon. Minister is back with us as we speak of liberalisation and exiting that monopolistic position that the country was placed in, in 1990. If the Hon. Minister is not consistent with his memory, let me remind him, very gently, that the Guyana Telecommunication Cooperation (GTC) was a net foreign exchange earner for this country. It was sold in 1990 to Atlantic Tele-Network Inc. for

US\$16.5 million. At the time of the sale, it had \$400 million in the bank – liquidity. It was earning between US\$2million and US\$4 million annually. Very importantly, it was not a 100% sale. An 80% sale of the enterprise went to the company and the Government retained 20%. We can assess whether that was a good privatisation deal or who got the better benefit of that deal.

At that time, the People’s Progressive Party/Civic (PPP/C) had advocated that the 20% share should go to the local private sector. Today, we are saying that our local private sector must be given a distinct opportunity, whether one wants to say advantage or... **[Bishop**

**Edghill: Preferential]** I am not going to say preferential. I am saying that, as we had argued during privatisation, we are arguing now that the local private sector should be taken into consideration when we are going to implement the new Bill with such stringent measures that might very well exclude the private sector, as I would show later.

It is clear that the PPP/C had a very well thought out strategy in relation to the liberalisation of the sector. If we are to go through, briefly, and trace the history of what took place over the years, we would see the following: In 1990, there was privatisation. In 1994, there was the World Trade Organization (WTO) agreement on trade and services where Guyana made a few market opening commitments to value added services. In 1999, there was the Public Utilities Commission Act with the creation of the PUC. In 2000, there was a Modernisation of the Telecommunications Sector Initiative, which was launched by the Government. In 2001, there was the Government- issued Consultation Paper on the Issues and Options for Reform on the Telecommunications Sector and we had initiated a series of public consultation. In 2002, the Government prepared a draft National Telecommunications Policy. In 2004, CellStar® began offering cellular mobile service in competition with GT&T. In 2005, the Policy was updated and a draft new Telecommunications Act was prepared, along with a proposal for modification to the PUC Act, with the support of consultants. In 2008, the Government signed a contract with Foley Hoag to prepare a draft new Telecommunications Act and regulations to finalise the sector reform process. In 2009, the European Union (EU) and CARICOM signed an Economic Partnership Agreement (EPA), which also had implications for the telecommunications sector. These were some of the actions taken by the PPP/C Government, throughout the years, to try to push this issue of liberalisation and to end the monopolistic position of one company directing the market.

**[Ms. Charles-Broomes: You were there for 23 years and you did not do it.]** Mr. Speaker, I heard a noise somewhere in the room. **[Ms. Teixeira: It is okay. I heard it**

too]           Where did it come from?           [Ms. Ally: It came from right over on that side.]  
[Ms. Teixeira: She does not know anything.]           If the noise is drawing my face in the  
right direction, then this is above that person's pay grade.

When the then Government brought this Bill and it was sent to the Special Select Committee, the Hon. Carl Greenidge, in making the case that this Bill should be sent to the Special Select Committee, said that the wide sweeping powers of the Minister needed to be addressed and we could not have had a Bill, in this modern age, that would have given such enormous powers to a Minister. As we were in that Select Committee, the Hon. Carl, Greenidge was consistent in opposing all clauses which he believed gave the Minister enormous powers. On numerous occasions when we brought Bills to this House, the Hon. Second Vice President, Khemraj Ramjattan, said that the PPP/C was suffering from *control freakism*, that everything was being handled by a Minister and that the powers were too much and too great for the Ministers.

Mr. Speaker, let me take your attention to Part III of this Bill - Functions of the Minister, the Agency and the Commission. It states:

“(1) Subject to the provisions of this Act, the Minister shall –

- (a) ... develop telecommunications and spectrum-related policies at the national, bilateral, regional and international levels...”
- (b) subject to subsection (5) and after receiving the written analyses, advice and recommendations of the Agency, make final determinations regarding –
  - (i) granting or denying applications for, and amending renewing, suspending and terminating, licences, exemptions and frequency authorisations;”

The Minister is given even more powers in this Bill than in the one that we had brought and which was sent to the Special Select Committee.

3.34 p.m.

The Minister shall decide which telecommunications network may be operated and the telecommunications value-added service that may be provided under “Classes licences” and terms of conditions.

The Minister shall determine instances in which a competitive process shall be utilised to select licences and authorisation.

The Minister will determine what competitive process is used. There is no process that will be determined and will benefit from public consultations. These are wide-sweeping, enormous powers that we will be putting into the hands of the Minister.

We are moving from a monopolistic position to a dictatorial position with the monopoly of power tiding in the Minister. We are going back in time when we are moving from a monopoly to a dictatorship, when we are taking all the powers and putting it, monopolistically, in the hands of the Minister.

We spoke earlier of how detrimental it can be when we do not give the technical people, the competent people, the people with experience, the people with the know-how to lead us in technical areas...

The Hon. Prime Minister would have known the consequence of this in the case of the paddy - rough rice - which was meant to be paddy and not rice. The Bill provides that the Minister will be the representative of the Government to international, regional and bilateral telecommunications and spectrum-related organisations, conferences, meetings and other activities.

The reason the Bill was sent to the Select Committee was to ensure that these powers, as identified by the Hon. Carl Greenidge, would have been removed and the powers would have been put in the regulating authority, the powers would have been placed in the agency that would have been responsible for the management of the sector. Today, we have not been able to, in this Bill, achieve this objective.

As a result of this *control freakism*, we now have a moral dilemma in our hands. The moral dilemma is that this very Government sent this Bill to a Special Select Committee to have these issues rectified. And this very Government, which is in control of the process now, has brought back this Bill with the identical conditions. Was there another intent in the first instance when this Bill was sent to the Special Select Committee? Was the intent, at that time, to slow down the liberalisation of this sector? Was the intent, at that time, to deny the people of this country the opportunity of moving away from a monopolistic situation in a telecommunications sector? This is a moral question that is placed at the feet of this Government. If we think, for a moment, that those powers were enough for the Minister, the

Minister will now give instructions to the agency and to other appropriate Government officials to take such actions with regard to telecommunications and its spectrum. The Minister will give such instructions.

This leads me to a question and the question I would like to ask is whether any consultation took place between the Minister and the Public Utilities Commission (PUC) in the rates that were determined for a four G (4G) network?

I recall that the Minister announced the granting of the 4G network. It was not any entity with the technical expertise. This became a mandate of the Minister. These are issues that will open up us for much criticisms because what we are moving to is a position where the Government, through the Minister, would not only be a dominant force, but an exclusively dictatorial force in dealing with this Bill and this Act.

The Minister has the power to do anything which, in his reasonable opinion, may be required in the public interest. I know it has to be a powerful person. I will get to what the consultant recommended and what we have now.

If the Minister gets tired in executing and managing all this power and require some rest, the Minister may delegate any function conferred upon him... It did not say 'her' here. **[Mr. Ramjattan:** The Law means 'her' too.] I will take that. I am just helping along.

Clause 19 (3):

“The Minister may delegate any functions conferred upon him by this Act, other than the power of making regulations and other subsidiary legislations...”

The agency would act based on the recommendations of the Minister. The agency would establish, with the approval of the Minister, and monitor the implementation of national telecommunications and spectrum-related technical standards; carry out the directions and orders of the Minister in the performance of his functions provided in Section 19; prepare and publish Annual Reports in such form and in such time as the Minister shall specify. The Minister will specify when we will do the Annual Report and the format it will take. Further, the Minister will advise on the activities during the year. The Minister would not only tell you when to do the Report and how it should be written, but the Minister will determine what activities this agency will undertake during the year. **[An Hon. Member:** So what?] Oh, so what?

You will have your chance to speak.

**Vice-President and Minister of Foreign Affairs [Mr. Greenidge]:** Mr. Speaker, on a point of order, under Standing Order 40. There is a piece of legislation before us, which the Member is quoting as indicative of what he calls dictatorial powers. He quoted legislation as giving the powers to Minister with words:

“The Minister shall...”

The Hon. Member read a set of things.

Mr. Speaker, if you read a paragraph by missing out a section of that paragraph, you are misleading the House. Let me read it for you, Mr. Speaker. [*Interruption*] I asked for the floor, Mr. Speaker, on a point of order, because the Hon. Member keeps repeating in relation to all the clauses. I am trying to ensure that we are not subjected to this misrepresentation used many times.

The legislation before us is clear. For all the powers that the Minister has now been given, there is a qualification which the Hon. Member is not mentioning. The original legislation states the following...

**Mr. Speaker:** Hon. Minister, you have stated the point of order. You have pointed out the mischief that you brought to the attention of the House, if I may use that term in the legal sense. We can proceed from there.

Hon. Member, please continue.

**Mr. Ali:** Thank you very much, Mr. Speaker. I am not known to be mischievous in any way. I will not create mischief for you or this House.

It is very important, as I said earlier, for us to look at the entire landscape of this sector as we move forward. The reason I say this is because I will not sign any motive to any company. Under a condition where two companies are operating, there can be a duopoly. That has its own set of disadvantages for the local market. What I seek to propose here are conditions that, I think, we must promote in order to avoid such situations.

Trinidad and Tobago is, perhaps, one of the shining examples, in the region, as a country that has a modernised telecommunications sector, increased its competitiveness and worked towards the creation of wealth in this sector. Most of the recommendations we brought and

left, when we were in Government, came from careful analysis of what is happening in the region and what is working best in the region.

3.49 p.m.

In Trinidad and Tobago, there are two mid-sized local companies - Green Dot Limited and Massy Group - and these companies, in addition to Government maintaining a presence in the market, help to provide a counter force, a counter balance. It is very important that we develop indigenous local companies that can create this counter force and counter balance so that there will not be a situation where these two large foreign companies can come together or, in local terms, *hold one head*, on a particular issue, thus, not bringing the benefits that an open competitive telecommunications system can bring to us.

There is, particularly, a very sensitive issue that we have to deal with in Guyana and that is our geographic conditions. We are not a small island with our population or the bulk of our population centred in one area. We have many regions in riverine and hinterland communities and we have a responsibility to ensure that whatever we do must take into consideration those people living in those regions. We must therefore ensure that we promote conditions that will stimulate the growth and encourage new investment by local companies to ensure the competitiveness of the sector and to ensure that the benefits of this sector can reach persons all across the region.

There is also the issue with foreign companies that extract a lot of profit out of this sector migrating the profit. The encouragement of local companies would ensure that we have a good segment of resources and profits being left locally.

More importantly is the exposure of our people to training. A lot of times, Mr. Speaker, these large companies import technical capacity. [Mr. Greenidge: The Guyana Marriott Hotel.] The Guyana Marriott Hotel was supposed to be a hospital but it is still operating as a hotel there. You should be... [Interruption] Mr. Speaker, I heard, Friday night, that the Guyana Marriott Hotel is a good liming place.

Government must also be able to proactively drive investment in this sector. It is no secret that one of our competitive areas in Guyana is our attraction for call centres. And call centres have the ability of generating large numbers of jobs. One of the inhibiting factors has always been the bandwidth cost for these call centres. But we have the opportunity here to encourage new cables. I want to make a call to Government: if you look at the developed countries



within our region, most of them have at least three cables coming in. In Trinidad and Tobago, it is more. All may not be well with the fibre optic cable that Government would have invested in.

**Mr. Speaker:** Hon. Member, you have almost reached the time allotted so I will receive a motion for...

**Ms. Teixeira:** Mr. Speaker, I would like to move that the Hon. Member be able to continue his presentation before this House. Thank you.

*Question put and agreed to.*

**Mr. Speaker:** Hon. Member, you have 15 minutes more.

**Mr. Ali:** Thank you very much, Mr. Speaker.

I am saying that all is not well - I would move towards may not be well - with the fibre optic cable project. This vision brought much development to the sector. It is after the announcement of this project by the Government that we saw renewed vigorous interest by the private sector in upgrading its facilities and bringing in new cables. However, we will not be able to change our position in terms of cost if we are not able to bring in that new cable. I want to call on the Government to relook at this project and for us to work - we can determine how we want to work - in bringing and making this cable a reality for Guyana.

Such a cable, whether this one or another one, has enormous economic benefits for us as a country. We can become the leading destination for call centres, even though we are not competitive, at this moment, because of our cost per bandwidth. And if one looks at bandwidth cost, for example, in Trinidad and Tobago, a megabit is US\$18; in Guyana, it is US\$850. Just imagine if we are able to bring this figure down to match even Trinidad and Tobago, how much more advantageous it would put us in becoming the dominant force for call centres.

Our legislation and our regulations must be able to support multiple fibre optic cables, whether it is from DIGICEL or any other company that is willing to bring connectivity to Guyana.

The People's Progressive Party/Civic (PPP/C) Government, from the inception, worked towards liberalisation. Let me give you some examples.

We granted Time Division Multiple Access (TDMA) licence to Lloyd Subryan for cellular service in Berbice.

We granted licence to Wesley Curtin U Mobile Cellular Inc. that ultimately became DIGICEL with the introduction of Global System for Mobile communications (GSM); without this licence, the Guyana Telephone and Telegraph Company Ltd. (GT&T) may not have switched to GSM from TDMA.

We granted licences to many wireless providers, including Noel Holder's iNet Communications Inc., for wireless internet in the industrial, scientific and medical (ISM) 2.4 gigahertz (GHz) band. [Mr. Greenidge: You did him a favour.] We are not saying that we did anybody a favour. We did this because we were committed to the liberalisation and you were mentioning names just now; I am calling them.

Mr. Speaker, we granted licence for broadband; we granted permission. [Interruption] Do you hear the words 'cronyism' and 'nepotism'?

**Mr. Speaker:** Hon. Member, are you still speaking on the merits of the Telecommunications (Amendment) Bill?

**Mr. Ali:** Yes, Mr. Speaker.

The Hon. Members are making it sound as if one investor, who might be associated or there is an opinion is too close to the PPP/C, would have been granted a licence. When we were in Government, we granted permission to over 30 cable operators to do both... [Mr. Greenidge: You are supposed to do it.] Mr. Speaker, do you hear him? One time we are granting to people who are close to us. When we gave the example of how many we granted, the next statement is that we are supposed to. So, we are not supposed to give people who the Hon. Members believe to be associated with us. [Mr. Greenidge: You gave to relatives.] We stand proud of our record and we granted licences to anyone who qualified for the granting of the licences. And when we were in Government, look at all those who received licences. Do you want to talk about companies? Every day, you can criticise the owner for a company, let us use an example of E-Networks. But do we, for one moment, sit and understand how many jobs they create. Do we, for one moment, sit and look at the level of investment they have made in this country? Do we sit for one moment and try to understand how many young persons were trained technically because of those companies? Some of these companies have completely modernised the landscape, opened up

opportunities, but this is the way we treat the private sector. The Government is demonstrating the way it will treat the private sector but, as I said, Mr. Speaker...

We are not saying that we did it all perfectly; we have never said that. We have never laid such claims in this country but what we can say is that we always did it with the interest of the people at the centre of our [*inaudible*].

When we provided the answers to the propaganda, we were opening up worms; we must allow it to go all the time; allow it to fuel.

The consultants, in their Report, said, on page 3:

“The August 2001 report identified both deficiencies in the PUCA and weaknesses in the Public Utilities Commission (“PUC”) as an institution (primarily under-funding and a lack of resources and expertise) as major problems in regulation of the telecommunications sector.”

*4.04 p.m.*

In the consultant’s view, to address the issue of telecommunications was to ensure that we look at the modernisation of the PUC and resourcing the PUC with both the proper technical and financial resources that would allow it to function in this modern era when we have the implementation of this Bill.

There were also a number of outstanding issues with GT&T when we were negotiating the liberalisation. There were outstanding tax issues. We do not want to wake up one morning and see a Demerara Distilleries Limited (DDL) headline. We do not want to wake up and see a tax settlement headline in the newspaper. The Minister of Finance assured this nation that such a mistake would not be made again.

**Minister of Finance [Mr. Jordan]:** Could the Hon. Member please inform this House when I did such a thing?

**Mr. Speaker:** The Hon. Minister of Finance rose a moment ago. Is it a point of order?

**Mr. Jordan:** Mr. Speaker, on a point of order.

**Mr. Speaker:** Please let the Speaker know.

**Mr. Jordan:** Under Standing Order 40, could the Hon. Member please remind this House when I did make such a commitment?

**Mr. Speaker:** What is the point of order, Hon. Minister?

**Mr. Jordan:** The Hon. Member said that I assured the nation that I would not make such a mistake again as it relates to... [Mr. Ali: Not you. That such a mistake would not be made again.]

**Mr. Jordan:** He said me. I know he is prepared to withdraw, so let him withdraw it.

**Mr. Speaker:** I thank the Hon. Minister. Hon. Mr. Ali, you have the floor. If you misquoted the Minister, it may be a good thing to remove it from any of your discourse so far.

**Mr. Ali:** Mr. Speaker, if I misquoted the Minister, I ask that it be removed.

**Mr. Speaker:** Is that a withdrawal of the statement?

**Mr. Ali:** Yes - time.

**Mr. Speaker:** Please proceed. The Hon. Member might wish to know that he has so far used 40 minutes.

**Mr. Ali:** I am coming to a close, Mr. Speaker. We would like the Hon. Minister to say whether any settlement has been reached in relation to any outstanding taxes or liabilities before liberalisation.

The GT&T had also previously indicated that it was willing to bring a second submarine cable. However, it may be advantageous to the development of a competitive telecommunications market in Guyana for a provider, other than GT&T, to bring such a cable to ensure competition.

I wish to conclude by saying that Guyana is in desperate need of this liberalisation and all of us must collectively support liberalisation. All of us would be on the right side of history by supporting a Bill that would do exactly what the Hon. Member, Mr. Carl Greenidge, wanted it to do when we sent it to the Select Committee. That Bill, whilst it allows the liberalisation, must not create a new monster by the power it gives to the Minister. I think I have outlined very clearly the mischief in this Bill in relation to the powers granted to the Minister. I think we have a responsibility in taking this necessary and important step to liberalisation to relook

at this Bill in a special select committee to correct the deficiency in relation to the powers granted to the Minister.

Thank you very much. *[Applause]*

**Mr. Speaker:** Hon. Members, it is now 4.00 p.m. We will have our recess for one hour and return at 5.00 p.m.

*Sitting suspended at 4.09 p.m.*

*Sitting resumed at 5.12 p.m.*

**Mr. Speaker:** Hon. Members, we resume consideration of the Telecommunications (Amendment) Bill 2016. The next speaker is the Hon. Odinga Lumumba.

**Mr. Lumumba:** Mr. Speaker, I stand here today to throw my support behind this Bill. However, we hope that the Minister would consider a few amendments, a few suggestions and, if possible, a trip back to a select committee.

Mr. Speaker, as you know, this Bill owes its birth right to the People's Progressive Party/Civic, but that is not important. What is important is that we, Members of this House, must find a common ground in order to enhance the development of our country and, at the same time, remove this slavish monopoly from the necks of the Guyanese public.

Mr. Speaker, let me briefly remind all of us that, at some time in 1991, which is well over 25 years, GT&T was given monopoly by the then People's National Congress (PNC) under the leadership of our ex-President, Mr. Desmond Hoyte. This Company bought this massive empire for US\$16 million and had access to the same amount in the bank accounts of the bought company. It took over and further accessed well over \$1 billion in receivables. The Guyana Telephone and Telegraph Company became a cash cow within 24 hours. Furthermore, GT&T used its access to local dollars to dramatically increase, in a negative manner, our exchange rate by close to over 50% by handing street money changers and cambios the Guyana dollar in order to collect the floating American dollar in the streets, denying an already weak private sector access and thus placing further burden on our national economy. One would have thought that GT&T would have used the opportunity to become a model operator, a model example of private development, in a developing society and would have shown us how a new company should behave.

Let me divert a little. On 13<sup>th</sup> September, 2014, DIGICEL represented an additional operator in Jamaica and it was quick to announce that, because of the opportunity provided by the Jamaican Government, it would build a national cable network within three years. “DIGICEL has plans to build an island-wide digital cable and broadband network within three years,” stated the then owner or the present owner, Mr. Barry O’Brien. The acquisition of Telstar and the island-wide expansion of its cable footprint is a strategic move to position the telecommunications firm to enter the subscriber television market. Mr. O’Brien declined to provide an estimate for the planned investment but said that it would be millions of dollars.

In 25 years, GT&T could have built 10 national cable networks in Guyana, but technology expansion was not its interest. Its only interest was maximum profit. We need a competitive telecommunications market. From my research, I would like to list 10 advantages that can be expected from such a development: expanded three-dimensional (3D) and alternative landline telephone services; lower cost in landline and mobile services both locally and internationally; more dynamic home internet services; wider reach and improved connectivity in rural areas; more job opportunities, especially new jobs; encourage more international investment in Guyana; for many companies that decide not to enter Guyana, communication network is an important point; better quality service and price; more modern equipment; increased revenue for the Government; and brighter and more creative students.

The people of Guyana have been *dealt a bad hand* for over 25 years by a monopoly called GT&T. It is like playing poker with the famous Doc Holliday whose Colt 45 was always on the table. The time has come for us to liberalise this industry so our people can be given options and service providers can compete in an open market for access to the client base.

Before we go further, we need to address the issue of monopoly so that my fellow Parliamentarians and the public can clearly understand what the issues are. A monopoly is not a nice thing. A monopoly is a situation in which there is a single producer or seller of a product for which there are no substitutes. Economies of scale is the situation in which the cost to a company of producing each additional unit of a product decreases as the volume of output increases. economies of scale is just one reason for the existence of monopolies. Monopolies also exist because of sole access to some resource or technology and because of the use of non-market means to eliminate competition, including buying up competitors, colluding with suppliers or customers to discriminate against competitors, enacting legislation to restrict competition, threatening costly lawsuits or even engaging in physical

violence. Monopoly represents economic wickedness and modern day oppression. It is economic slavery.

Furthermore, as is the case with all monopolies, there are strong incentives for natural monopolies to abuse their market position in order to increase profits and to enhance their power. This includes charging prices far above the cost of production, providing lower quality products and inferior service associated with those products, suppressing new technologies and contributing to corruption of the political system. Such abuse often results in pressure from consumers for government regulation.

Mr. Speaker, how often have you used the GT&T telephone to ask for information and how long did you have to wait to receive an answer? How many rings did it take - 10 or a dozen? Just ask the residents of new communities around this country, whether West Coast Berbice, West Bank Demerara, Providence, Grove or Herstelling. The answer is always that it has no budget line for new development. Here is a monopoly company with total responsibility for the development of telecommunications services and there are communities with hundreds and thousands and the answer is that there is no money for further expansion. This is not a case of 12 houses. It is a case of thousands of Guyanese residents being denied the right to access telephone services in 2016. This is just outright arrogance and backwardness.

*5.21 p.m.*

Like in America, in 1996, Guyana must rid itself from the barbarous policy of monopoly. Monopoly has been destructive to many countries. Let us take Mexico as an example, reported by the Organization for Economic Cooperation and Development (OECD), it was indicated that, Mexican billionaire, Mr. Carlos Slim, was running a telecommunications company that was costing the country billions of dollars every year. The article emphasised the following: That the lack of telecommunications competition in Mexico had led to inefficient telecommunications markets that had imposed significant costs on the Mexican economy and burdened the welfare of its population.

The Companies, America Movil and Telmex, are owned by the world's richest man, Mr. Carlos Slim. According to *Forbes* list of top billionaires, Slim's net worth is US\$74 billion and next in line is Mr. Bill Gates with a US\$56 billion net worth.

The Mexican telecommunication market is dominated by a single company with 80% of the fixed line market and 70% of the mobile phone market.

These are shades of Guyana. The average market share of the largest telecommunication company in the 30 other countries that the OECD examined, including the United States, Japan and Chile, is roughly 40%. In total, Mexicans have been overcharged \$13.4 billion per year, according to the report, and poor people have been charged disproportionately higher. This equals a \$25 billion cost to the Mexican economy each year, which is equivalent to the nearly 2% of the country's Gross Domestic Product (GDP).

Mexico is the second largest economy in Latin America. According to the report, America's Movil and Telmex's monopolies are limited from growing. In order for the country to develop, more people need access to telephone services, the costs must go down and there needs to be more public investments in telecommunications.

The report further states that the Mexican Government was partially responsible for Mr. Slim's monopoly because it restricted foreign investments in the telecommunications industry and did not give the regulatory authority enough power. This is a clear example of why this yoke must be taken from the necks of our people.

It is important that, in Guyana, we use developing countries as examples to guide our own development. There is nothing wrong with learning from others. In 1934, the Government of America authorised the American Telephone & Telegraph Company (AT&T), which was a natural monopoly, to provide telecommunications services to America. The American Telephone and Telegraph Company was allowed to operate in a non-competitive environment in most areas of the country in exchange for a federal and state government regulation of price and service quality. However, there were a few exceptions in places where the monopoly could not provide services and the small companies were allowed to provide services in those areas.

In Guyana, our agreement in 1991 did not allow room for other mortals. In Guyana, the Guyana Telephone & Telegraph Company (GT&T) was allowed to dominate the telecommunication industry in all areas, even when the company was unprepared or unable to provide services in the hinterlands, small communities, and very recently, in many new communities adjacent to Georgetown. As a matter of fact, it was the advent of DIGICEL, as a major player in Guyana, which partially broke the back of the monopoly and allowed some mobile services in the hinterland, isolated communities and in new neighbourhoods, where small telecommunication services were added, such as internet services. Obviously, the international service is still dominated by GT&T because of the reluctance to allow DIGICEL



and other operators to have direct access for our citizens who want to access inexpensive international services.

It is important that we note that America saw the need to remove this monopoly, and in 1996, passed the Telecommunications Act, which was the first major rewrite of its Communications Act of 1934. This Act created an atmosphere that opened up local markets for competition. Therefore, changing the dynamics of the existing system of funding a service called the universal service, which I will talk about later and to which the Minister referred to earlier.

The 1996 Telecommunications Act, explicitly, adopted principles to guide what were termed as universal service policies. The biggest principle of these services are as follows: Promote the availability of quality services that are just, reasonable and affordable rates for all consumers; increase nationwide access to advanced telecommunications services; advance the availability of service to all consumers, including those in low income, rural, insular and high cost areas at rates that are reasonably comparable than those charged in urban areas; increase access to telecommunications and advanced services in schools, libraries and in rural healthcare facilities; and provide equitable and non-discriminatory contributions for all providers of telecommunications services for the fund supporting universal service programmes. I want to compliment the Minister for having that part of it.

Mr. Speaker, like the United States (US), Guyana needs to put in place a system that would fund an agency whose responsibility would be to implement telecommunications services in areas that might not be profitable for operators, but areas that house our citizens, in particular, our indigenous people. The funding of this service must come from a fee or a tariff provided through legislation and not through the Minister's intervention, but through legislation that would ensure that all companies pay a tariff to support a universal fund.

This is a very important element in this discourse. Even though we want telecommunications services for all of our people, it is important that it is noted that we want profits for large investors. We want them to make a profit, but we must ensure that those people, who have been isolated in the distribution of telecommunications services, are provided for.

In the United States, the Community Assistant program is called Universal Service Fund and the Minister went at length to spell that out in the Bill. She spoke about it in a principled manner and I must congratulate her on that. There are a few areas that need some clarity, particularly, in terms of the fee structure.

“Universal service is the principle that all Americans should have access to communication services. Universal service is also the name of a fund and the category of FCC programs and policies to implement this principle. Universal service is a corner stone of the law that established the FCC, the Communications Act of 1934.”

The United States Telecommunication Act of 1996 expanded the traditional goal of universal service to include increased access to both telecommunications and advanced services, such as high speed internet for all consumers at just, reasonable and affordable prices. The Act established principles for the universal service that specifically focused on increasing access to evolving services for consumers living in rural and insular areas, and for consumers with low incomes.

Additional principles called for increased access to high-speed internet in the nation's schools, libraries and rural health care systems. We would like to see telecommunication systems and services put in place in every school from nursery to university. The Federal Communications Commission (FCC) established four programmes within the Universal Services Fund to implement the statute.

The Federal Communications Commission was created by the Communications Act of 1934. We would like to see a commission set up to implement these services that are very similar to what is obtained in the United States, but what we do not want is a commission that is appointed by the Minister. We want a commission that will be appointed by the Parliament with some intervention by the President. Universal service was one of the core mandates of the legislation, the purpose of which included making available to all the people of the United States, a rapid, efficient, nation-wide and worldwide wire and radio communications services, with adequate facilities, at reasonable charges.

The Telecommunications Act of 1996 in America was the first major re-write of the Communications Act of 1934. It opened up local markets to competition, promoted the availability of quality services at just, reasonable and affordable rates for all consumers, increased nationwide access to advance telecommunications services, advanced the availability of such services to all consumers, including those in low income areas and increased access to telecommunications in schools.

In essence, if GT&T will not do it or cannot do it, let us ensure that the major operators, including GT&T and DIGICEL, subscribe to hard facts and legislation that would ensure that the utility commission implements those activities.

In closing, I would like to state that this is long overdue. We live in a modern world. The modern world does not tolerate monopolies; it does not tolerate a company that has the responsibility of developing a technology, handpicking which neighbourhood or area it would service or satisfy. The modern world does not tolerate a telephone system where, when one calls for information, one must call 40 times and hang up 60 times before there is an answer, whether it is for overseas calls for the directory. The modern world expects a vision that would ensure that everyone is taken care of. The modern world does not accept the fact that because one may be indigenous or lives in the Isseneru area that he/she does not have the right to have telephone services. The modern world does not accept the fact that a new neighbourhood, with thousands of residents, is built and there is no access to telephone services, when, in developing countries, that happens overnight. Yet these same companies are owned by foreigners who live abroad.

Again, I want to thank the Minister for bringing this Bill back to the House and I hope that we can work together as Guyanese, at least for today or tomorrow, to ensure that we have the right things in place to benefit our citizens.

Thank you. [*Applause*]

**Mr. Hamilton:** Mr. Speaker, I will not attempt to speak to the monopoly because I assume that all of us, in this National Assembly, are agreed that the monopoly must go and, today, we are attempting to ensure that the monopoly goes. After we would have finished speaking, today, about what should happen, I suspect that the ordinary citizens out there, tomorrow and the day after, would want to know how this would help them or change their circumstances. I recall years ago, when we had set up the Guyana Water Inc. (GWI) and had brought legislation and talked about what would happen... We are all faced with a situation where there is a company, like the Guyana Power and Light Inc. (GPL), that is a monopoly, but the point I am seeking to make is that they are their own masters and, in large measure, the citizens do not get the type of benefit out of them.

Regarding the area of Information and Communication Technology (ICT), during the month of May, we were told by the two major telephone companies and by the Government that the

Fourth Generation (4G) service was launched. There were a lot of expectations. What is the reality? If one goes on Facebook one would see that, daily, people are speaking to the fact that, with the 4G service, they are sometimes unable to get the third generation (3G) service, second generation service (2G), first generation(1G) service and sometimes they get zero generation (0G) service. Therefore, the question for citizens and the answers we must provide are how do they benefit; how do they, when they pay for their service, get adequate service?

The Bill is one thing by itself and we have passed many legislation. This country is famous and good for passing laws. We can compliment ourselves; this is my fourth stint in the National Assembly. The question always is, after the legislation is passed and has been assented to, who polices and ensures that it functions the way the way it should, based on how it was explained by the respective Minister who would have brought it to the National Assembly? That is the question the ordinary man would want answered. I suspect and I hope that the Minister, in winding up, would seek to speak to that.

In the Hon. Minister's presentation, when she presented the legislation, she spoke to the National Assembly. Mdm. Minister you did not speak to the ordinary man and woman out there. I hope that you would use the time, when you are winding up the debate, to speak to the ordinary man and woman, to allay their fears and to say to them that the expectations that they have would come to pass.

*5.36 p.m.*

As I refer earlier, all of us had great expectations when we heard that the 4G service had been launched. But, as I said earlier, persons are paying for the 4G service, and I am not talking about in Isseneru or in the Pakaraimas, I am talking about in Georgetown, they are paying for 4G service and are sometimes unable to get 0G.

So already, even with the so call upgrade, we are being...I wanted to use a word, I do not know if the Speaker would allow me, but I would not use the word – somebody is echoing the word at the back. The point I am making is, already we are paying for the 4G service and we are not getting that. If we use that as what is to come, then we are already in waters where the ordinary man and woman will suffer.

Again, I would urge the Minister to allay the fears of the ordinary people; speak to the ordinary man or woman as to what to expect of these companies that you would grant licences to. What recourse do we have as citizens who pay for a service, is denied that service

and have no recourse? Today, using the GPL and Guyana Water Incorporated Inc. (GWI) as examples, all of us are citizens, no matter what they do, we have no recourse. The point is, talk to the ordinary people out there. Since 2002 or thereabout, and this is a personal example I am using to make my point with the GPL specifically... [Lt. Col. (Ret'd) Harmon: I thought it was the Telecommunications Bill we are speaking about.] I am making a point that when one pays for a service he/she must get a service and that the Government, the system and the law that we are passing, must ensure that that service is guarantee. That is the point I am making.

Already, I am making a point that, in the area of ICT, two months after we were told that the 4G service had been launched, in the city of Georgetown, we are paying for the 4G service and there are times when we are unable to get 0G.

The Explanatory Memorandum states that:

“...the Bill is expected to result in greater choice, better quality of service and lower prices for consumers. To further national and regional and social economic development, the Bill also specifically addresses the expansion of telecommunications networks and services into unserved and underserved areas through the institution of a new universal access/universal services programme.”

Laudable - all of us support what this Explanatory Memorandum is stating, but beyond today, as I said, we have to ensure that it works and that it works for the ordinary people.

Part XIV of the Bill, states that the Minister has the powers to make regulations, to take action against telecommunications users of the spectrum, *et cetera*. I hope that when the Minister winds up she would also seek to say to us. [Lt. Col. (Ret'd) Harmon: Only winding and winding] Lt. Col. (Ret'd) Harmon, you like winding. The word is stimulating you. I would hope that the Minister indicates to the National Assembly, how soon the regulations to cause the Bill to function would come into effect. The Hon. Minister also spoke of the Code of Conduct. How soon? That is another issue, whereby we have legislation that are unable to function because there are no regulations to manage the levee. So I would hope that the Hon. Minister speaks to how soon we would get that.

Cde. Ali specifically spoke to the issue of inserting, in the Bill, the vast and great powers of the Minister. I would like to place on record and to bring to the National Assembly and to say that this is my fourth stint serving in this National Assembly and I have never seen a Bill

where a sector is being asked to nominate a delegate to sit on a commission or an agency. Also, it is being done by making the Permanent Secretary a Ballot Officer. This is what Part II of the Bill states and I am sure that many of my friends across the other side did not even read the Bill, so they did not see this. It deals with the Agency.

## Part II

“(2) (iv) one person named by the private sector after consultation among persons from private sector bodies, such consultation to occur at a meeting summoned by the Minister and chaired by the Permanent Secretary to which the representatives of the private sector bodies are invited;

What is wrong with that? There is no legislation that I know about that came to this National Assembly in all the time. Could Hon. Members point to any, where the National Assembly was asking any sector to nominate persons for an agency, for a board or for a commission and the Minister was calling a meeting, appointing the Permanent Secretary as the Ballot Officer and this selection or election was done? I mean this is nonsensical. It is suggesting that the Minister does not even have confidence in persons who are heads of agencies and civil society groups to select their own persons. My friends across there, you cannot name any commission.

We have just submitted or is attempting to submit names for the Ethnic Relations Commission (ERC). There is no summoning of a meeting. What we do is we ask the specific group to submit names or a name to the National Assembly to be included. I hope that the Minister would consider expunging this ridiculous piece that is in here. This is one sector of civil society.

“(2) (v) One person named by the consumer bodies after consultation among persons from such bodies, such consultations to occur at a meeting summoned by the Minister and chaired by the Permanent Secretary to which representatives of the consumer bodies are invited...”

Again, we are in 2016, this is an insult to civil society and this is an insult to the Permanent Secretary, who is a public officer, making him a Ballot Officer to elect or select somebody to put on an agency. [Mr. Greenidge: A Ballot Officer elects someone?] You are

making a Ballot Officer. [Mr. Greenidge: You said a Ballot Officer elects someone.]

Oh Shhh!

*Mr. Speaker hit the gavel.*

**Mr. Speaker:** Hon. Member, Mr. Hamilton, please take your seat for a while. I must ask Hon. Members to temper their exuberance. I am listening to words and we are getting closer to being out of order. I am sure that we could manage the English Language without some of the words to which we make reference. Please proceed.

**Mr. Hamilton:** If we go on to clause (2) (vi), look at the difference,

“one person named by the Vice–Chancellor of the University of Guyana...”

Here we are now having two selections/elections to appoint the person from the private sector and the consumer person on the Agency, but the Vice–Chancellor is allowed to select his person for the Agency. I would hope that some consideration is given to having the civil society organ.

Mdm. Minister, be in a position that when you make a request for someone to be named, you put them to sit together and they would send a name to you that they feel is best suited to serve on the Agency. It is the same way as you have allowed the Vice–Chancellor of the University of Guyana, in the legislation presented, to select his nominee to be on the Agency.

The other issue is, when Mr. Ali was speaking about the wide and various powers of the Minister, I was trying to find out if the Minister did this, then what would be the function of the Agency? What would the Agency really do? Could the Agency move? Could the Agency act without instructions from the Minister? Is the Agency really empowered to take action?

As I said, all of us are agreed that the monopoly must go; all of us are agreed on the importance of such a piece of legislation for the future of this country and to ensure the expansion of ICT; and all of us are aware of how development could happen for the country, once some of these things or most of these things happen in Guyana.

*5.51 p.m.*

As I said, when I started, all the consumers want are fair rates and rates that are not burdensome to them; that is what the ordinary people want and those things we must speak about. They want adequate and efficient service regardless of where they reside in Guyana. We must ensure that all of the people who have invested already and will come to invest in Guyana in ICT and telecommunication understand that, whilst they are coming to make

profit, they must also serve the people of Guyana and do not do like what there is at the moment.

We were exposed to a situation whereby we saw rapid changes with one company when another company came into the market. All of us can say that a lot of the things that GT&T attempted to do, which it should have done a long time ago, it started to do them rapidly when DIGICEL Guyana entered the market. The more businesses and more competitors, our expectation is that we would have better rates and better service.

An important issue that I think I should mention is that citizens want to be sure that, in this new dispensation, companies would not start to bring about technical arguments to shutdown applications that they are accustomed to. Already, there are arguments from the two companies operating here that consumers should be able to use Facebook, via data, but should not be able to make calls, even though the application gives someone the ability to make calls. I suspect that there would be a great debate with the companies that would come to invest and those that are already here. This debate, I suspect, would start about whether we, as citizens, should pay for what we are accustomed to now. That is a discussion that we should expect. The young people who are involved and the young people who depend on social media want to be assured that the companies would not present technical arguments to seek to deprive them of features in applications that they presently utilise.

I would hope that the Minister, when she is wrapping up the debate, would speak to that issue. Would there be any effects on the ordinary people in relation to what they are accustomed to, the applications that they are exposed to and the use of those applications? Would it be allowed for these companies to start technical arguments to seek to deprive us of using those applications?

As I said, the ordinary people out there – I am specifically speaking about the consumers – would want to hear from you, Mdm. Minister, about what to expect and how they would fare in this new dispensation. What recourse would they have to deal with the issue of bad services? Those are the things I hope you would address in your wrapping up. Thank you very much. [*Applause*]

**Minister of State [Lt. Col. (Ret'd) Harmon]:** Mr. Speaker, I rise to give my firm and unequivocal support to this Telecommunication (Amendment) Bill and join with my Colleague, Ms. Hughes, the Minister of Public Telecommunications, as we take into



consideration the issues that have arisen in this debate and in the determination of how we arrived at the final Bill that is before this honourable House.

This Bill is historic, not only because it brings an end to a marathon journey of consultations, but also because it closes the chapter of Guyana being the only English-speaking Caribbean country to still have in place a virtual monopoly in the telecommunications sector.

Members of this House would recall that, prior to acceding to Government, the A Partnership for National Unity/Alliance For Change (APNU/AFC) Coalition, in its social compact with the people of Guyana, promised to provide a new regime for a liberalised and competitive telecommunications sector. I am happy to say that, just shortly one year after, we have the Bill on the floor of the House and we are debating it.

Before I go a bit further, I think it is important that I address some of the statements that have been made by Members on the other side from the time the Hon. Minister, Ms. Hughes, spoke, in particular the reference to the fibre optic cable as a signature project, in the telecommunication sector, of the PPP/C Administration. Mr. Speaker, you would recall – and it is public knowledge – that this project was costing Guyana about US\$42 million. It was started in 2011 and was abandoned in 2013 by the same people who had started it, after over US\$6 million was spent on the cable, a cable that is virtually useless and was meant to link Georgetown with Lethem to bring internet service from Brazil into Guyana. We have seen the photographs in the newspapers of the cable slung in trees, some barely scratching the surface and laying on the ground. I remember the Hon. Vice President Allicock lamenting on his journeys from Region 9 to Georgetown that he had seen the cable slung all over the place.

[Mr. Ali: He did not tell you that he had a subcontract.] That is terrible. Did you give him a subcontract just like that? Is that how it is done with Government's money? This has been the major criticism of that project - the fact that the former Government chose the wrong people for the project, people with no experience. For example, the manager of the project had no experience in this regard. When I had raised it in the House, the Hon. Minister at that time, Mr. Ashni Singh, had made a statement that I was criticising and attacking young engineers. The fact of the matter is that the person had no experience and time has proven us to be correct.

This Bill was brought to the House in 2010 by the previous Administration. They took it to a certain point, passed it in this House and then suddenly recognised that they needed to bring it back. The previous Administration, which is talking about all the progress that it made,

brought the Bill, passed it without the Opposition being present, and in their own deliberate judgement decided that they were not going to go ahead with it anymore and decided to bring it back again. What are they talking about? Why are they criticising us when we have been in Office for one year and have already brought it already here? What is that?

I had the opportunity of serving on the Special Select Committee in the Tenth Parliament when this Bill was sent to the Special Select Committee. Some of the Hon. Members who were in that Committee are here. They included the Hon. Member Mr. Ali, Mr. Nadir, Mr. Benn and the former Prime Minister, who was the lead person for the Government at that time. The Committee was chaired by the Hon. Member, Vice President Mr. Greenidge. I sat on the Committee and there were two other Members of the then Opposition.

Mr. Speaker, I can say to you that that Committee sat for over 32 times since the Bill was committed to it in November, 2013. The Bill had significant refinements done to it at the level of the Committee. In that Committee, we were almost concluded on the issues in relation to this Bill. One issue had to be dealt with and that had to do with the governance structure.

The Committee decided that the former Prime Minister, as a representative of the then Government, and I, as a representative of the then Opposition, would sit and deliberate on this issue and go back to the Committee with a recommendation on how to deal with the governance issue. I had three meetings with the former Prime Minister in his office and I am sure that we became *ad idem* on the issues as they related to governance.

What is in this Bill, by and large, represents the discussions and the deliberations that took place in the Special Select Committee and beyond the Special Select Committee.

When my friends were talking about “Minister this and Minister that” I wanted the Hon. Member Mr. Ali to provide one example of where it states what the Minister was responsible for and it was not discussed in the Special Select Committee or did not appear in the previous Bill.

We discussed all of that. We put brakes on the Minister in the Bill. In fact, we were being told, in the Special Select Committee, that we had better to be careful because if we were taking all of the powers from the Minister, one of these days one of us might have become a Minister and would have no power. This was discussed, but we decided that, in the interest of

transparency, democracy was important enough and that we were going to proceed with this Bill as it came out of the Special Select Committee. This is what we have before the House.

*6.06 p.m.*

This issue about Minister this and Minister that is nitpicking. In fact, Mr. Speaker, if you were to look at the content of the presentation from the other side, apart from them talking about the “Minister this and the Minister that”, there is nothing else that takes this Bill forward for the people of this country. I would want to urge that my friends reconsider the statement about taking this Bill again to another select committee and let us do what we have to do and pass it. The Guyanese people are looking out for that; they expect that; and that is the least we could provide them.

We had tremendous assistance in the Select Committee. We had the expertise of Mrs. Janis Brennan, an Attorney-at-Law in the United States of America (USA), who had been serving the previous Administration and came to work with us. We believe that she is an excellent person and that she did an excellent job. She worked with Ms. Gita Raghubir, who also provided us with excellent services in the Committee, as well as our own Chief Parliamentary Counsel (CPC) and his staff. We had experience, knowledge and enthusiasm in that Committee and the work that was done by the Committee, I felt very proud of it and I feel very proud today to be able to stand and represent this Bill in the National Assembly.

The technical officers who give evidence before the Committee were all very committed people. Mr. Valmiki Singh from the National Frequency Management Unit was subjected to serious cross- examination about what he was doing, where he was doing it, why he was doing it and what the cost of these things were. But, at the end of it, we were able to arrive at a situation which was acceptable. I think Mr. Valmiki Singh did an excellent job of defending the position which he had taken.

We also had several representatives from the private sector, the same private sector that my learned Friend talked about us not consulting. There was extensive consultation.

**Mr. Hamilton:** I did not say that. Mr. Speaker, a Point of Clarification. I never said that there was no consultation with the private sector. I spoke to the section that deals with how their member would be selected to the Agency. That is what I said.

**Lt. Col. (Ret'd) Harmon:** It is important to note that the former Prime Minister, Mr. Samuel Hinds, who introduced this Bill in the Tenth Parliament, in expressing his disappointment in the further delays in the passage of this Bill, alluded to the work of the Select Committee and the need for the Bill to be passed immediately. This he did in an interview with the *Guyana Times* newspaper on 26<sup>th</sup> October, 2014. All of that could have been accomplished had it not been for the untimely prorogation of this National Assembly by the President at that time, Mr. Donald Ramotar. It would have been finished. So, it is not, in my respectful view, for the Members of the Opposition, who were the Government at that time, to be saying now that we must take this Bill back to a select committee. It is wasting time. The people of this country cannot wait any longer for this Bill to be passed.

There is no doubt in the minds in the Members of this side of the House that the passage of this Bill would yield tremendous benefits to the citizens of Guyana. I am hopeful that the Members on the other side have actually come to that realisation. All over the world, liberalised telecommunications sectors have opened up numerous social and economic opportunities for countries, particularly on the livelihood of the ordinary citizens.

In Africa, Ghana had the lowest Gross Domestic Product (GDP) per capita and the lowest telephone penetration until the passage of its telecommunications reform legislation in 1996. The result was a dramatic rise in the number of telecommunications provider offering mobile services. By the end of 2009, there were six mobile network providers in Ghana offering competitive prices for services to its citizens. This resulted in an increase in the number of mobile service subscribers from a meagre 2,000 in 1994 to 15,504,612 by February, 2010.

The liberalisation process also saw the creation of employment, new business opportunities and a reduction in trade and commerce transactional costs.

Another case on point is the liberalisation of the telecommunications sector in the Philippines. According to the World Bank Institute case study which was done by one Rafaelita Aldaba,

“The opening up of the telecommunications sector has provided significant benefits to the economy. The liberalisation of the sector allowed the entry of new players resulting in rapid growth of the network, increasing in foreign investment, access to technology and opportunities for companies to improve efficiency and the emergence of new service providers in the Philippines”.

Here, in Guyana, a limited competitive environment was obtained with the emergence of DIGICEL Guyana in 2007. This limited competitive environment saw Guyanese benefiting from over a 50% reduction in mobile telephone rates. Let us for a moment imagine what a liberalised telecommunications sector would do for the standard of living of our citizens in the hinterland and those living in un-served and underserved areas of the coastland. It would open up a gateway to a global village, putting unlimited access to educational learning material, reducing the transactional cost at the fingertip of citizens...

**Mr. Speaker:** Hon. Members, photographs are not allowed to be taken in the National Assembly from the public gallery. Please proceed, Hon. Minister.

**Lt. Col. (Ret'd) Harmon:** ...allow access to new markets and increase access to residential and essential Government services. All of these things would create greater opportunities for all of our citizens, both in the hinterland and on the coast, by giving them unlimited and cheap access to the information and communication technology highway.

The primary intention of this Bill is to put in place a regulatory regime that would result in Guyana taking its rightful place on the digital map. This would enable new entrants and investors to the sector, while preserving and allowing the enhancement of the activities of the current participants. It would also bring about, in an ordered fashion, a wide range of benefits to our citizens, both as residential and business subscribers, such as more choices, cheaper prices and a higher quality of telecommunications services. Additionally, the passage of this Bill would facilitate the expansion of telecommunications networks and telecommunications services into un-served and underserved areas and regions of Guyana, through the institution of new universal access, universal services programme.

This Bill, taken in the context of the Government's E-Government strategy, would increase and improve telecommunications services and would put at the fingertips all of our citizens essential Government information and services, thus removing the geographic and, to a lesser extent, the status barriers that exist in our society.

During the life of the Tenth Parliament and while this Bill was engaging the attention of the Select Committee, there was some disquiet on the other side of the House, then the Government, about the governance structure of the Telecommunications Agency. I wish to ensure them that the structure envisaged by this Bill is to provide that institution and, by extension the sector, with the most experienced technical leadership available in this regard.

The Bill, in Part II, outlines a predictable process of appointing Directors to the Board. It specifies in section two, clause 3, sub clause 4 the qualifications of the persons to be appointed:

“The members of the Board and the officers of the Agency shall be persons of high character and integrity and qualified as having had extensive and relevant training and experience in the fields relating to telecommunications law, economics, finance, engineering, or other technical, business or consumer matters”.

What else does the Opposition want? This is what the Bill states. These must be the character and the quality of the persons who are to be therein. The technocratic nature of the Telecommunications Agency should therefore never be in doubt and the overreaching arm of the Minister should never be something which you bother about when there are people of this quality on a Board. Never!

The Bill also outlines the relationship between the subject Minister and the Agency, another dimension to the case of the Government’s commitment to good governance and transparency at all levels.

We could have not reached this point in the debate on this Bill without the tireless work of the Members of the Select Committee, the technical staff of the Ministry of Public Telecommunications and the leadership of the Hon. Minister of Public Telecommunications, Ms. Catherine Hughes. I wish to give my commendation to the Minister and her team for an excellent job in putting this Bill together and bringing it to before this honourable House for debate.

Today, I am happy to say that I give my full support to this Bill and that the presentation of this Bill today in this House demonstrates how important and productive working with stakeholders could be in achieving the common good. As I said earlier, I was happy to have served in that Select Committee in the Tenth Parliament. Even though we had our disagreements, we found common ground and this is what is manifested in the Bill that is before the National Assembly. I trust that we would be able to find common ground on several other issues, as we had found in this Telecommunications (Amendment) Bill. Mr. Speaker, I commend the Bill to the House for its passage. Thank you. *[Applause]*

**Ms. Burton-Persaud:** The Telecommunications (Amendment) Bill 2016 is, indeed, a piece of legislation that is important to Guyana’s communications landscape at this point in our

country's development. Its relevance must not be overlooked because, as we embark on the journey to join the rest of the world in the advancement and enhancement of communications at its various levels, it is important that our policies are in sync with those in operation globally.

Our need to enhance our communications sectors here in Guyana is urgent as this enhancement would offer the consumers the quality of services they long for and look forward to, and the affordability of choice of service provider when this Bill is passed.

*6.21 p.m.*

All Guyana longs for an open, liberalised and modernised telecommunications sector in this 21<sup>st</sup> century, a dream that was earlier hindered when, in 1991, the telecommunications sector was monopolised and, as such, later efforts to remove this monopoly, in 1992, were very much restricted. With the rapid advancement of technology in the 21<sup>st</sup> century, we have witnessed the revolutionising of the telecommunications sector globally. Today, we no longer acknowledge telephones and radio sets as luxury items, but, rather, these, along with all the various communications apparatus and applications, have become an integral part of our daily lives. Had it not been for the monopolising of this sector, Guyana would have been on par with the rest of the world and this Bill, which is before us today, would have been enacted long ago. I here state that I am happy to know that the very party that was responsible for bringing this monopoly on board is today seeking to unravel that monopoly. The telecommunications sector has evolved over the years.

**Mr. Greenidge:** Mr. Speaker, I rise on a Point of Order. It is just as a matter of fact. The sector was a monopoly before 1991, throughout the Colonial period. It was not monopolised in 1991.

**Mr. Speaker:** Hon. Minister, is it a Point of Order?

**Mr. Greenidge:** It is a Point of Order, Mr. Speaker. It is a Point of Order under Standing Order 40. Under that Standing Order, one can elucidate the point. I am saying that the Member was inaccurate, more than once, in accusing this side of having monopolised the sector. I am saying to you, Mr. Speaker, as you know very well, throughout the Caribbean, the telecommunication sector was owned by the Government. It was not monopolised in 1991.

**Mr. Speaker:** I thank the Hon. Minister for his statement.

**Ms. Burton-Persaud:** In response to my Hon. Colleague on the other side, it was moved from a Government monopoly to a private sector monopoly.

The telecommunications sector has evolved over the years and its horizon has broadened. It is therefore important that the amendments to this Bill are in keeping with the wider landscape. It must not, in any way, seek to create uncertainty and distrust in the minds of the service providers or the consumers. We, the Hon. Members of this House, must be mindful of this fact.

However, a careful scrutiny of the Bill would reveal that there are indeed areas of concern in relation to some of the amendments. Part II, which speaks to the establishment of the Telecommunications Agency, in clause 3, sub clause (2) (a) (iv) states, as my Colleague the Hon. Mr. Joseph Hamilton did indicate, that the person from the private sector bodies would have to be selected at a meeting called by the Minister and chaired by the Permanent Secretary.

To that, I would state that this clause infringes on the rights of the private sector bodies to conduct their own consultations and designate their representatives without interference from persons outside of those bodies. It also offers a scenario likened to that of a person having to be invited to his or her own birthday party. We are implying, through this clause, that the members of the private sector bodies are incapable of conducting their own businesses. Are we, then, saying that the agencies that these persons represent are being managed by incompetent personnel? The simple process of one choosing its representative to the Board is clearly being micromanaged by the Minister. For a distinguished body such as the private sector it is an insult to their individual and collective ability to comprehend and carry out the simple task of selecting a representative. The same situation occurs in clause 3, sub clause (2) (a) (v) in relation to the representative from the consumer bodies.

Part II, clause 3, sub clause (2) (a) (iv) and (v) needs to be revised. If not, then we are saying that these appointees are incapable of being analytical and efficient. Hence, any judgement on their part can be deemed null and void. Could we take it to mean that these persons would be there as mere window dressers? Part II, clause 7, sub clause (2) states:

“A member or an officer may resign from his office by letter addressed to the Minister or the Board.”



There is once again need for clarification. One must be clear as to whom one would forward such an important piece of correspondence. It cannot be either or. This is a grave human resources blunder. In most cases, such a letter can be sent to one person and copied to the other for the purpose of notification. Since sub clause (1) of this same clause states:

“The Minister may, after seeking the advice of the Board, terminate the appointment of a member or an officer...”

Then, should it not be the same order of procedure that should be employed when it comes to the tendering of a resignation? Once again, this clause of the Bill needs to be revisited.

Clause 21, sub clause (1) (h) states that the Telecommunications Agency:

“in the performance of its functions under this Act...”

Will have the power to

“... investigate and adjudicate complaints brought against operators and service providers with respect to their obligations under this Act and the regulations, including complaints by users regarding their failures to obtain redress from operators and service providers in respect of prices, billings, telecommunications services and quality of service provided;”

I see no need for the inclusion of this clause, since: (1) this is clearly a duplication of one of the functions of the Public Utilities Commission. If it is not there, then it should be and (2) provision for such action to be undertaken by the PUC is enshrined in Part XI, clause 66 of this very Bill under the heading, “Dispute Resolution by the Commission”. Must it be taken that, in including this clause, it is suggesting that it is perceived that the PUC will not live up to its expectations and its mandates? Clause 29 (2) states:

“Nothing in subsection (1) shall prohibit the Minister or the Commission from authorising a person that operates a telecommunications network or provides a telecommunications service to disclose lists of its users, including directory access databases for the publishing of directories or for such other purposes as the Minister or the Commission may specify.”

This clause, when invoked under this Bill, would certainly strip the operators and service providers of the right to safeguard the privacy of the consumers. This is no comfort zone for

the consumer and one must be careful that authority and privilege does not lend way to abuse of same. The necessary precaution must be taken to ensure that such requests must only be granted in extreme cases and not on the whims and fancies of a few. The request for warrants must be questioned in-depth by magistrates and Justices of the Peace (JP) who must be satisfied that the request is justifiable before issuing a warrant.

Clause 30 (1) and (2), under the heading, “Requirement for a Frequency Authorisation”, states:

“Except in accordance with an order or regulations issued under subsection (11), no person shall use a spectrum, or install or operate radiocommunication equipment, without a frequency authorisation granted by the Minister.

A person who wishes to use the spectrum, and install and operate radiocommunication equipment for such purposes, shall submit an application for a frequency authorisation to the Agency in the manner specified in the regulations”.

In today’s world, and more so in the Guyana context, this clause speaks not only to large and medium scale operators, such as civil aviation, maritime, defence and satellite operators, but also to television broadcasting operators, FM and AM radio operators and cellular communications, which include mobile services. However, we are yet to know if this Bill will affect the small operators such as internet cafes, cable service providers, wireless service providers and website developers and designers. How will it benefit or affect ICT and our youth to whom the internet is their life?

Part VII, clause 43 (2) (c) states:

“as the Minister may specify...Provided that no service provider shall be required, as a condition of its authorisation to provide public telecommunications services, to publish a free printed telephone directory for consumers”.

This clause is clearly stating that, when this Bill comes into being, the customary hard copies of telephone directories, which are issued to the consumers, would be history, or if it is to be retained, would come with a price. One could readily ask what would be the cost and who would decide what the cost would be? Would it be the Minister, the Telecommunications Agency, the PUC or the service provider? This clause needs clarity.

Part VIII, clause 48. (1) - Harmful interference - states:

“No person shall operate any facility, radiocommunication equipment, terminal equipment or any other equipment or apparatus in a manner likely to cause, or that causes harmful interference”.

This is very common and is a distasteful situation that not only some operators but also consumers have to endure from time to time, sometimes a bit too often. It is hoped that this Bill will make this situation a thing of the past and that it will apply to all parties.

Clause 49, Space segment states:

“The Agency, allocating frequency bands for radiocommunication services that use satellite systems, shall ensure that access to space segment is made available on a non-discriminatory and equitable basis.”

It is hoped that this will indeed be realised for failure to activate such an important clause will be a mockery and a deception to the level competitive playing field we are seeking to bring into manifestation.

Part X, clause 57 (1) (a) to (f) give the Minister and the Agency unlimited powers for entry, searching, questioning, inspecting and confiscating of premises, lands, vehicles, equipment, *et cetera*, as they so deem fit. The need for the issuance of a warrant to effect same, as is stated in clause 58 (1), offers very little measure of relief to the service providers and operators. It is hoped that, as stated in clause 57 (4), power, authority and privilege would not render personnel incapable of acting in a reasonable manner at all times during the course of carrying out these functions.

This Bill presents the Minister with unlimited powers and, as such, one will hope that it is used to ensure that quality service and good management are priorities.

I must say that I am very heartened to see that, as is mentioned in Part XII under the heading “Offenses” in clause 68 1 (c) and (2), not only the Minister, Agency and Commission Personnel are the ones being protected under this Bill, but also the service providers, operators and their personnel, since we live in an environment that wreaks with threats and violence by those who feel that they have the right not to come under scrutiny for anything.

6.36 p.m.

However, clause 69 (a) and (b), marginal note, “Penalties for failure to obey order or furnish information and notices and furnishing false information”, leaves the officer who is employed with an agency and who is delegated to carry out this function vulnerable in the case where the directive not to furnish the information comes from the management or owner of the said agency.

This is a practical situation that can happen. Provision must be made to deal with this when and if ever it should occur. Leaving this open offers the worker no protection and at his or her own wits end to defend himself or herself or face the brunt of the law. In this case, the penalty, once found guilty of such an offence, is not less than \$5 million and not more than \$10 million and a term of imprisonment of not more than two years.

This Bill, as important as it is, is a very complex one. Its enactment, once properly managed, will see Guyana moving forward in the world of telecommunications technology. These amendments to the Telecommunications (Amendment) Bill will have great and lasting impact not only on the industry, but on the lives of all who reside in our country - the internet users, internet cafes, frequency modulation (FM) radios, cable providers, internet providers, website designers, network designers, and individual, small and corporate businesses. It will have great impact on both private and public sectors. Its implementation, once professionally, impartially and efficiently managed, will no doubt see Guyana going to the next level in the world of communications.

It is hoped that when this Bill comes into being, clause 30 will allow mobile users to access our telephone service here in Guyana when we arrive at Moleson Creek and are travelling further down the Corentyne and not still being in receipt of service from Suriname.

It is hoped that the services provided by companies such as GT&T will be better and that we will see very few complaints, as we have seen over the past few weeks, from consumers about the quality of service that they are not receiving.

It is hoped that when we pick up our telephones and we try to call GT&T to get telephone directory or some service, we are not met with long advertisements coming through the phone line and have to wait for minutes or hours to get into contact with a person.

The amendments to this Bill have long been in the making but, due to shortened vision by some and the willingness by the People’s Progressive Party/Civic Administration to ensure that its contents truly address the needs of the consumers while, at the same time, presenting a

level playing field that is in conformity with the National Competitiveness Strategy, this Bill is still being debated in this House today. We must ensure, therefore, that it serves its true purpose and that there is no sinister motive hidden therein. Hence, it is overly important that we re-examine its contents and fine-tune them to meet the needs and demands of today's society.

This very important piece of legislation, when enacted, must offer everyone value for money. Finally, the Telecommunications (Amendment) Bill, Bill No. 15 of 2016, when fine-tuned, will open up the way for a modernised and liberalised telecommunications sector in Guyana. It is with that premise in mind that I recommend that this Bill goes to a parliamentary select committee. Thank you. *[Applause]*

**Mr. Ramson:** I rise to share my contribution on this very important Bill that will affect, ubiquitously, our way of life and how we conduct our quotidian activities in the very near future.

Before I do, I feel compelled to address a few points mentioned by Members on the other side. Allow me to say what a pleasant and substantial contribution was made by my Colleague, Ms. Gillian Burton-Persaud, a very indepth and specific contribution which is in contrast to the platitudinous and vacuous statements made by Members on the other side.

*Mr. Speaker hit the gavel.*

**Mr. Speaker:** Hon. Member, your comments are out of order.

**Mr. Ramson:** I withdraw those comments.

**Mr. Speaker:** It would be helpful, Hon. Members, if we try to avoid having to withdraw statements.

**Mr. Ramson:** I agree. In relation to what the Hon. Joseph Harmon said, that the Bill ought not to go to a select committee because it is substantively the same, if it is substantively the same, why did it take so long for it to be laid in this honourable House?

This was a promise made while you were in campaign - in your 100-day promise. At no. 19, it states:

“Liberalisation of the Telecommunications and ICT sectors”.

It has been over 400 days and, if it is substantively the same, then it should have been laid at your very first session or within the first few months of your sessions.

In relation to what the Hon. Member, Carl Greenidge, said when he interrupted my Colleague and Comrade, Gillian Burton-Persaud, that the sector was already run by one entity, it is not a boon for you to say that a successful telecommunications sector, that was profitable, you privatised on monopolistic terms. That is not something that you should be proud of. What GT&T did was *ketch a paccoo and buss he back*.

I am surprised that you would stand here and try to justify the monopolistic contract that was entered that has trapped Guyana for a very long time. As old people would say, *easy lesson hard fuh dunce*.

As a civilisation, we are sitting at a very exciting time in our lives. We are seeing rapid changes happening all around us. The most important external forces in our daily lives today are the networks that connect us.

I remember in 2008 and 2009, it would take five minutes before you were able to log into your hotmail email account and when smart phones were not even dumb phones. Now, they are so ubiquitous that everybody is always on their phones scanning their Facebook, making calls through their WhatsApp or getting in touch with people all around the world and right here in Guyana. The changes that are taking place are happening rapidly, at a pace that has never happened before and right before our very eyes. I can assure you that, as we evolve from this old age analogue technology into new modern and digital technology, and we shape how that is done, all the changes that we have seen taking place in the last eight to 10 years will seem like a stroll in the park when one considers what will happen in the next five to 10 years.

Two years ago, people probably did not know about WhatsApp and making calls to people all around the world. In the developed world, applications such as Uber has now transformed taxi companies and people who provide those services; that has changed it forever where it brought down prices for consumers.

If you are not up to the times with that technology, as a consumer, you are losing. You will also be caught on the back foot as a policymaker. That is why we are always concerned about age old personnel trying to shape new age technology. The defining force of the future will not be 4G; it will be 5G. The 5G will be the connector, the internet and the enabler of things,

where robots will be talking to each other. All your devices and appliances in your houses are going to be connected. You will have self-driving cars and artificial intelligence. These are things that we have to be aware of as we move forward. This will be happening very quickly and you will have to shape the policy and the framework within which that is provided.

The demand that the networks now face, for example, where it is expected that, by 2020, there will be one gigabyte of data being used by every person, if this were happening today, the networks would have fallen apart. New spectrums would have to be opened. At present, mobile carriers would run on the spectrum of about 800 MHz to 2,500 MHz. The 5G would be running on 73,000 MHz or 73 GHz. These are things that you have to be aware of. You have to set out the framework now so that you are setting the pace for the future. Part of that is laying the Information and Communications Technology (ICT) legislation, which rightly states:

“To improve access, to improve competition”.

You have to also balance that against consumer protection and national security. It is not a sector that we can over regulate. It is very different from the financial sector which, as a product of the financial sector which we debated two weeks ago – the Insurance Bill... Finance is something that you have to be very careful about regulating because the consequences of failure is systemic.

For technology, on the other hand, the changes happen so quickly that you cannot over regulate. You have to be much more loose about your regulations, especially as it relates to data, internet and broadband. The phrase in ICT, “Less is Best”...

In order to deal with the Bill properly, I have to deal with the Hon. Minister’s presentation. The Hon. Member, Joseph Hamilton, was correct when he said that the Minister missed a big opportunity. This has been a long awaited piece of legislation. It has been long discussed and has been in the pipeline for a very long time. The Hon. Minister missed the opportunity, despite whatever texts that she received from Members on the other side, to explain to the nation how it will benefit them.

*6.51 p.m.*

In addition to that, she failed to set out the vision for the future for the Government. This is the place where you should have made that statement – what it is that you expect to happen not only for consumers, but also the service providers. It is not only about saying...

*Mr. Speaker hit the gavel.*

**Mr. Speaker:** Hon. Member, you are speaking on the merits of the Bill.

**Mr. Ramson:** Yes, I am.

**Mr. Speaker:** I will remind you that the requirement here is to speak on the merits of the Bill. Please proceed.

**Mr. Ramson:** It is not only about saying that this part relates to this part and that part relates to that part. This is your public conversation not only with this National Assembly, but with people outside in the communities and all across our country and to the investors all around the world. This is being streamed all around the world and, even if you are only able to capture one investor, that is one investor more than you could ever have had.

Guyana's market, in addition, is a very unique market because it is a very large geographic area with low density. One of the major positions that this Bill has adopted, which is of great benefit, has been the concept of net neutrality. As much as the Hon. Member is mentioning unsavoury things over there, uncivilised statements over there, he would not understand...

*Mr. Speaker hit the gavel.*

**Mr. Speaker:** Hon. Member, you may wish to withdraw the language you used. You are out of order.

**Mr. Ramson:** "Uncivilised" may not be out of order.

**Mr. Speaker:** Hon. Member, you will withdraw that word now.

**Mr. Ramson:** I withdraw it.

**Mr. Speaker:** Hon. Member, please proceed.

**Mr. Ramson:** One of the great benefits of this Bill has been the adoption, which other jurisdictions have not adopted, incidentally, of the concept of net neutrality. In the Minister's presentation, there has been no mention of this. All investors, all internet service providers,



would say to themselves that this is something they would want to consider as a result of this being included in our Bill.

In relation to getting more into the specifics of the Bill, in the broad overview, there are three big problems with the Bill. Conceptually and ideologically, first of all, the role of the telecommunications agency. It ought to be functioning exclusively as the regulator and not to leave it to the Public Utilities Commission. Whether it is an economic regulator or not, the telecommunications agency ought to be exclusively the regulator and it ought to be independent from the Minister. It will be very difficult for the Minister to drive the liberalisation of the sector; an independent telecommunications agency will be the one to drive the liberalisation of the sector. Let us say, for instance, that you change the Minister and the Minister who comes in shares a different position on the liberalisation of the sector that may not be as aggressive or may be antipodic to its development, then how do you ensure that the technological changes that are required and the liberalisation that is required are moving in a seemingly aggressive way? So, the Minister ought not to be the one driving the liberalisation of the sector; it should be the telecommunications agency. In addition to that, for all intents and purposes, a minister is a politician and a politician's life is driven by the nature of unfolding events. And, in a modern world, changes happen so rapidly in the technological sector that regulators have to give approvals and make decisions that could cause a company to lose its competitive advantage.

The second big problem that I have is the role that the PUC is going to play as the economic regulator. I am going to discuss that more when the PUC Bill comes up next.

The third big issue that I have with the Bill is that there is still unnatural distinctions between telecommunications and broadcasting. In the developed world where technological convergence happens, it means that formerly distinct industries, sectors and companies have already amalgamated and integrated, and the rest that have not done so are doing so very rapidly. And there are a lot of questions as it relates to the performance of the regulator, currently, that have to be answered; and I am going to ask them right now to be a litmus test on whether there is proper functioning of the regulator and what is happening as it relates to consumers' affairs.

Does anyone of you or anyone in the member of the public know how much you pay for a minute for a mobile phone call? No. You do not know. Most of the people do not know. All they know is that their credit finishes at some point; they may or may not get a notification

and they go and put more credit in there. And that is how it is for most people – you do not know.

Why is it that, if you would like to leave your network, you are unable to take your number with you? Why should you not have the ability to take that number which you have built – even if it is a business or your personal attachment - with you? In the developed world, this has been dealt with years ago; it is called a porting authorisation code. If you would like to take that number with you, you simply fill out a form; you are given a 10-digit code and it comes with you.

Why is it that between networks and then, hopefully, eventually among networks, you are paying more than you ought to? So, if you are paying \$10 or \$20 per minute on a GT&T to GT&T call, you are now going to pay whether it is \$30 or \$40 a minute inter-network. That is the ultimate predatory pricing arrangement that there is. And there has been nothing that has been done to effectively address that.

In relation to the Bill itself, on the composition of the telecommunications agency, we find the director of telecommunications being a member of the board. But the problem is that he has a vote. Most Chief Executive Officers (CEOs) for public companies, whether they are publicly traded or public as in public corporations, do not have a vote on the Board of Directors because they effectively executive the policies, decisions and directives of the Boards – the Chairman, for example. And there is reason as to why this ought not to happen, why the CEO ought not to have the vote. In the Broadcasting Bill, for example, the National Frequency Management Unit (NFMU) had an *ex officio* member placed on the board but it was a non-voting place of membership on the board. The reason you do not want to give your CEOs voting rights on boards is because, a lot of the times, they are asked to make decisions where they may have voted against those decisions and then the board adopts a particular position and they now have to executive that directive.

The Act prescribes and enshrines emoluments for the CEO that has to be approved by the board. If he is going to be voting on those emoluments and pay packages, then obviously there is an inherent conflict of interest. And this is only one example; there are many examples that I can cite where the inherent conflict of interest arises and would necessitate him or her not having a vote on the board.

I noticed that there is also advice, in clause 20 (b), from the telecommunications agency to the Public Utilities Commission. And again, an inherent conflict as it relates to that. And if this Bill were to be sent to the Select Committee and a public consultation had structurally, that type of arrangement is untenable. For example, in clause 20 (d), it states that the role of the telecommunications agency is to monitor the performance of licences. Surely, it has to be licensees and then this is reinforced by the definition section. This is in the first part of the Bill. It gives a specific definition for licences and gives another one for licensees. Licences do not perform; licensees do, however, and if you had sent this to the select committee, you would be able to recognise this. It may have just been a grammatical error or an oversight, which could be corrected on the floor, but, really and truly, it ought to have been laid earlier, sent to a select committee, have us deal with this and send it back up so it could be passed. And where there have been no statements given by the Hon. Minister and nothing in the Bill that would address particular areas of concern, for example, what happens when you deal with mergers and acquisitions or what happens if those mergers and acquisitions turn out to be anti-competitive or anti-trust? What is the position as it relates to auctioning spectrum? How is the telecommunications agency going to deal with that? What is the Minister's view on that? Are you going to transition that spectrum into property rights and offer the same kind of protection that other property would have, save and except where the spectrum is not being used so it can be reclaimed and re-auctioned. How are you going to deal with cyberattacks or sabotages to sea cables, those very sea cables that are the backbone for the transmission of information and fibre optics contained in there? This is a very large and complex Bill and, since you recognise that, you should know, by necessity, it ought to go to a select committee.

And let me say that, if you are labouring under any misapprehension about the nature of consultation, consultation is not only as it relates to stakeholders; consultation is as it relates to the public.

*7.06 p.m.*

There are many young, bright, text-savvy friends I have who would like to have a say on this Bill. They are not all PPP supporters. Some of them are also your supporters but you never took the opportunity to provide public consultation on this Bill. If you feel you are going to consult with a consumer stakeholder or one or two of the companies you are going to regulate and feel that that is all the consultation required, the change that is being driven is not being driven by the large companies where technology is concerned; it is driven by young people

and small start-up companies. When you look, you will find where the funding for technology companies is. It is for small companies and young people - venture capitalists. Go all across Silicon Valley and you will find big investors looking for the small ideas which can be scaled up into something very large. The point I am making is that consultation can never be complete and you can never come to this National Assembly and say you are complete and satisfied with your process of consultation if you do not have public consultation, especially by your own admission. This is a very complex and technical Bill, but it is also a Bill that is expected to revolutionise the future for our country.

Finally, even after everything I said, I know that the Government's position is going to be that it is not going to send the Bill to a select committee. There is a bigger issue you are also missing. There has been no Bill that has been sent to a select committee, despite all my protestations and advances two weeks ago in relation to the Insurance Bill. This Bill is not going to be sent to a select committee as well. The big problem you are going to miss is as it relates to social cohesion. There can never be social cohesion in this country if you exclude the Opposition. Always remember that, in Guyana, we love two things – cricket, and politics and our politicians. Members of the public, the vast majority, take their cues from their political leaders. If your position is that you would like to imbue and engender a sense of social cohesion in this country, the last thing you would want to do is exclude, at the very least, the sending of Bills to select committees where we can work together.

Thank you very much. *[Applause]*

**Mr. Greenidge:** Mr. Speaker, I am privileged to have the opportunity to contribute to this debate on one of the most important Bills that the House has been called upon to deal with in recent times. I listened, with some sadness, to some of the presentations from across the aisle. As Chairman of the Subcommittee, I wish to remind Members that the bulk of the material in this Bill commanded the support of both sides within the Special Select Committee. The main point on which there was a debate, as the distinguished Member, Mr. Harmon, explained, turned upon the issue of governance. But I will come to that in a minute.

Let me start, if I may, by just reminding the House that the legislation, as set out in the Government's policy paper, was intended to effectively bring to an end a monopoly enjoyed by one agent in the telecommunications sector. Just for those who have a difficulty with the English Language, let me explain something: a monopoly existed prior to 1991. You cannot refer to a monopoly as being post 1991. The point is that the monopoly was not created by

this Administration, I want to make that clear. Secondly, it is characteristic of the presentations made that we are dealing with *nancy stories*; we fabricate events when they do not exist. That is the point.

As far as the legislation is concerned, this particular piece of legislation is intended to allow for other companies to enter the local market and to offer a variety of services and benefits which would include more bandwidth and more mobile service providers, more landlines and a host of other internet-related services. It is access to those services that offer the opportunity to improve economic welfare, widen economic activities and also enhance the activities undertaken within the economy. The legislation also addresses the internet protocol, service providers and the like.

One of the things I want to move to before I turn to anything else is to again draw your attention to the legislation that came to the House and the legislation which is now before the House. I have the opportunity of drawing on the matrix prepared by the technical staff of the House during the course of our deliberations. Let me just give you an idea of why it is that I am saddened when I hear many of the discussions. The paper presented to us, as regards the private sector involvement in the legislation, speaking to the agency now, makes no provision for representation. After hearing all the things said about democracy and the Bill not being given the opportunity for private people to be represented, the legislation which came to us, at clause 3 subclause 2 (a) (b) and (c), had no provision for any involvement by the private sector. It had no provision for the involvement of anyone other than the private sector; three persons were appointed by the Minister and they ran the place. Here we are being told that this Bill is anti-democratic and does not give the opportunity for the private sector to appoint its own representatives and spokesmen. We are not dwelling in a realm of perfection. It is governance, and, in the realm of governance, you do the best you can in terms of institutional arrangements. You must not claim things which are not part of your own proposal.

Secondly, I am looking at the role of Ministers. This is one of the most egregious comments, I think, made today. I am looking at the legislation and we could probably start with clause 7. The old Bill had that the Minister may terminate the appointment of a member. We have modified to:

“The Minister may, after seeking the advice of the Board, terminate the appointment...”

In other words, these are not untrammelled. I am making this point because we heard the word “dictatorship” used by the other side. You presented a situation in which the Minister can exercise that power untrammelled. There is a qualification written here. If you go to the one that our Colleague on the other side was getting very excited about, the functions of the Minister as set out in clause 19, Part III, “Functions of the Minister, the Agency and the Commission”, clause 19 (1):

“Subject to the provisions of the Act, the Minister shall...”

This was the wording we received before we modified this Bill. If my Colleagues listen carefully, they will understand the difference I am trying to draw. As regard clause 19 (1), it states:

“Subject to the provisions of the Act, the Minister shall...”

And it goes on to empower him to do a variety of things: develop and review telecommunications legislation; determine which telecommunications networks may be operated and so forth. All of those things were in the legislation provided by the Government in the last Parliament. What is different now is as follows: whereas what we received said that, subject to the provisions of the Act the Minister shall, this Bill qualifies “shall” even before those functions are listed. It qualifies it in this way:

“...the Minister shall –

(a) after seeking the written advice and recommendations of the Agency...”

That is a big difference. You do not make the presentation as though the Minister is empowered to make a decision without reference to this. [Mr. Ali: Read on.] I do not have to read on. I am reading what is here. Mr. Speaker, the purpose of drawing to your attention this clause was that it was deliberately omitted to misrepresent what was here. [Mr. Ali: Read on.] Just to help you, since you want it read on:

“(a) after seeking the written advice and recommendations of the Agency and the Commission, develop telecommunications and spectrum-related policies at the national, bilateral, regional and international levels, consistent with the purposes of this Act, and communicate such policies to the Agency, the Commission, telecommunications undertakings, and the public;”

That is the qualification. Those are completely acceptable in terms of international practice. You consult and then... I have read what is here without omission. That is the first point I would like to make. We must not be subject to convenient interpretation of events. If I might refer you also to the legislation pertaining to the end of the clause, there is an insertion here which we specifically asked the lawyers to incorporate to ensure that these ministerial powers were constrained. It states at subclause (5):

“Where any determination, decision or direction of the Minister on a matter for which he is required to seek the advice or recommendation of the Agency in subsection (1) or in any other provision of this Act differs materially from such advice or recommendation, the Minister shall so indicate, and provide the reasons...”

The point is that, if in the end, having received advice, he chooses not to accept that advice, he has to give reasons in writing. This is common practice; this is the best practice in all of the international jurisdictions.

*7.21 p.m.*

The nonsense that we are being called upon to read on does not solve the problem. That is the issue. Governance requires that the Minister be informed because he cannot take the action without first being informed. Having been advised, if he refuses to abide by that advice, he has to give it in writing. He cannot say afterwards that he had been advised differently, as had happened many times before; he cannot say that it was not he who took the decision and that it was an adviser somewhere. It has to be written and that is what is captured here; that is the difference. One cannot take a section out of a 200 pages document and use the word “shall” as proof of absolute power. The legislation itself is quiet comprehensive and very consistent.

Mr. Speaker, I would also like to draw your attention to another allegation that I heard a few minutes ago concerning the legislation. Let me, again, draw your attention to the fact that the original Article we received, in clauses 73 and 74, which deal with issues relating to the services provided by the providers and the discrimination that they may exercise, in terms of what consumers may enjoy, is captured in the legislation. This is a rough interpretation of net neutrality. It was not captured in the legislation that came to us. It is captured in the legislation here and the paragraph is very clear. I say to you, in relation to clause 73, that:

“An operator...”

It goes on to say specifically:

“...such service providers’ telecommunication service, or violates the principle of net neutrality...”

Then it goes on to discuss it. So, it is clearly set out here. It was not tackled, let alone addressed, in the legislation that came before us. We discussed this jointly, the two sides agreed to it and it was never the subject of contention after it was incorporated in to the draft. To hear parties, on the other side, speak to omissions of these, and to how the developments were missed and the opportunities to exercise initiatives to go ahead of the others were missed, are, again, *Nancy Stories*.

I will say to this House that, as far as the charges that we were given, in terms of ensuring that the broad objectives of the liberalisation and reforms were met by giving specific and separate functions to the Minister, the purpose of the Minister and the debate that took place was over whether the Minister was responsible and should be responsible for policy oversight. If the clauses that I was making reference to, and to which the Minister conveniently found necessary to start off by mentioning - Mr. Greenidge said this and that - are looked at, the mention which I was making and that which this legislation meets was this: The Minister is responsible for policy and the words that follow shall, should not give him the power to collect information, determine this, implement that and the other. There are separate policy making, and where he is making policy, it has to be on the basis of advice. That advice, which will come to him, could come either from the Commission or from the Authority, depending upon their specific areas of competence.

The areas are carefully separated and, in the policy paper, prepared by the PPP/C, in three to four years, prior to our deliberations, it drew that distinction that the Agency was to be responsible, on the technical side, for the implementation, formulating advice and for carrying them out. This legislation, in fact, honours that commitment which the previous Government made and which we believed was important and relevant. We have respected the roles of the three actors, which are set out in the legislation. There is no inconsistency but, obviously, at points, there will be overlaps. As regards the officials that serve these bodies, the powers exercised by the Minister have also been constrained instead of the Minister being given powers to terminate people’s services. For example, the Board has been equipped with the power to review and to deal with the activities, performance and the disciplining of persons within the agencies. I think that, on the basis of the discussions, it clearly is a very



complicated and technical area. On the basis of the deliberations that took place, let me say that I believe we have every reason to argue that it is not necessary to resend this piece of legislation to a parliamentary special select committee.

Again, if we are going to have difficulties with language and semantics, let me remind Members that the arrangements for consultations were as follows: The Committee sought to obtain views from the public through invitations to the public. If there are people in this economy who are young, clever, smart and technically savvy, then I believe that they should also be capable of reading newspapers and the other organs through which the advertisements are made. All members of the public were invited without discrimination as with regards to age, ability or any other qualifications, as some of our distinguished Members wanted to make reference.

In addition to that, the major companies were also given a request to submit their views. They did that, and during the month of February they presented written submissions. The public was given an opportunity to submit, the representatives of consumers and the providers themselves were also given the opportunity. Amongst those who submitted were representatives of the University of Guyana (UG), as well as a group called the BrainStreet Group.

In addition, GT&T, DIGICEL and the Guyana Consumers Association were also invited to make oral presentations. They came to the Committee and both sides of this House had put questions to them. In the end, there were a number of things in which the political parties in the House took a common position on, which were at variance with those of the parties that were represented here. It is again, with some sadness, that one hears a different story being told here today, as though these pieces of legislation were crafted somewhere in space, without reference to the parties on the other side and that there was some great divide between us on these matters. The division came over specific areas and in the end the sub-committees that were established to resolve the differences never reported that significant differences remained. That is the situation.

It is really unfortunate that we speak about working together and that the country would not go forward. The country will not go forward if we believe that by locking ourselves in a room, agreeing to something that would be a secret since the public would not be privy to it - those discussions or internal leaks - and then come afterwards and to say that we did not agree or that something was bad on the other side, when, in fact, both sides had agreed to

these things. I chaired those proceedings, but the former Prime Minister led the discussions and he was there with his team, including Members who are here today. They fought for many of the things that are in the Bill. In some cases we were persuaded to go with them. For instance, in the case of the auction of spectrum, that was something we had disagreed with, initially, but eventually arrived at a position.

It is true that many of those who spoke very strongly and eloquently were not party to the discussions, but we have an obligation as political parties working within this House to honour those things that we may have crafted ourselves. Where a consensus was found, we have an obligation to live with that consensus because, otherwise, we would have to take the matter back to a parliamentary special select committee and people would then reopen it, randomly, because they would find it inconvenient to move forward.

I call and I urge my Colleagues, in the national interest, to remember how these Bills got here and to bear in mind their own goals and in all cases the mentioning of how important the Bill is likely to be for the modernisation of Guyana. Telecommunications access and prices do not only affect telecommunications providers, they also affect the users and most importantly, businesses, services such as banks, hotels and so on. Unless we move with some dispatch on these matters, where we would have already found consensus, we are really going to be doing ourselves a disservice.

I could turn to many other things that were raised. We talked about *half the story being told*, it is fashionable now in Guyana to *talk half and left half* and my Colleagues did that, including reading the legislation. We could talk about the discriminatory manner in which some of these legislation proposed to treat with companies on the so-called approved day, when some companies would get special privileges and others would not. I do not want to go there, but it is there. Maybe some people have reflected on these things and have decided that it was not such a good idea and that they should not embrace it too wholesomely. The fact is it was embraced, almost in its totality, by both sides. We have to do the things that the national interest requires of us, which is to move forward on the Bill. We could go and fight on something else where positions have not yet been set and where there is time. In this case, I urge Colleagues to do the honourable thing and embrace the consensus, which many of them, on behalf of the Members on the other side, helped to fashion.

Thank you very much Mr. Speaker. [*Applause*]

**Ms. Teixeira:** Mr. Speaker, it is really interesting sitting here tonight and listening to the debate, and thinking about what happened just a few days ago, where there was an attempted *coup* in Turkey and the way in which Twitter had been used by the President of Turkey to call the people out to stop the attempt to overthrow a democratically elected government. If anyone had thought in 2014, when we were looking at this Bill or in 2012 when it went to the special select committee, about Presidents and Heads of States using Twitter to communicate with their own populations, supporters, electorates and other people in other countries, it would not have been conceivable. It would not have been conceivable that a President would be calling the people to stop a military *coup* against his Government and would have succeeded. That, to me, is the recognition in this House of how powerful and revolutionary the period is that we are in, in terms of the digital and the information revolution.

Technology is improving so quickly in that what we did in 2012, which we thought was really progressive and what we did in 2014 at the parliamentary special select committee, which we also thought was progressive, are getting old by 2016.

7.36 p.m.

Technology is going fast ahead of what we are doing and so it is a challenge probably in this sector more than any. Look at the Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) Bills – there was the 1991 Bill, in 2009 there was a brand new Bill, the failed attempts in 2013 and 2014, and how many different amendments were brought to the Bill between June 2015 and just a month ago in this House? Those are financial and commercial issues.

This sector is the one that is galloping ahead and I think there would have to be, and I hope there will be frequent returns to this House to keep updating.

However, Mr. Ramson was right when he said that the Bill needed to have certain “flexibility and looseness”, which may not be the right words in a technological framework, to be able to accommodate the new technologies, new apps and new services that are emerging. While some of us are still learning about Whatsapp and Twitter, the world out there is way ahead of us, even for us who are Members of Parliament (MPs) in this House. So this is an opportunity for the Bill to be futuristic. We have learnt the hard way and we have learnt the difficulties.

The position we are in tonight, has taken us 20 years to get ahead, not in 2011 or in 2012, but it took us 20 years to get to this point. Whether the Hon. Mr. Greenidge likes it or not, the

point is that this country was dealing with one body that had a monopoly on the telecommunications sector and that is a fact. Whether he wants to play with semantics, I am not prepared to use my time to get into semantics with the Hon. Member.

However, the effort to bring modernisation and liberalisation to this sector has not been a long one. In 2011, we had brought the Bill and had even agreed that we would meet during the August recess. We then did the first reading, went to the second reading and the Members on the other side had said that they were not meeting during the recess and had stopped coming to Parliament. On the last day, before the dissolution and before the 2011 Elections, based on the appeals and demands of the Guyana Telephone and Telegraph Company (GT&T) and its principal shareholder, Atlantic Tele-Network Inc. (ATN), we had agreed to a deferral of the Bill and, therefore, it lapsed.

We have gone through this attempt. In 2011, we had the majority and we could have voted the Bill through. Do you think that we could not have done it? We had the numbers but we did not. Maybe someone or historians would look back at us and say that we should have done it then because the telecommunications sector would have been far ahead. There were certain circumstances that were there that have not been talked a lot about.

The House needs to be reminded that, when the Telecommunications Act was passed in 1990, it was a Bill that was specifically created to deal with the fact that there was a private monopoly of the telecommunications sector. It was moving out of what the British controlled, we were independent, it was 1990, which was a big difference between 1966 and 1990, by the time it had moved from a State company to a private monopoly.

It was during that period that the two Bills were created, the Telecommunications Act, which was based on a British system and the Public Utilities Commission Act which was based on an American system. So there had been some bifurcation and differences on how the two would manage, one as an economic regulator and the other as a technical regulator.

So the importance of the issue of this Bill is that it has gone through many changes. When we began, as a Government in 1993, to call in GT&T for talks about moving this process forward, we did not know anything about what was going on. We were on the cusp and the world was on the cusp of the digital revolution. Here were all these young boys in garages doing all sorts of exciting things and creating all these fantastic technologies, that for 20 odd years we are all amazed at how our life is easier and how we have access to information.

The Telecommunications Act (1990) was made for that purpose and so we have to recognise that is what controlled things.

The other attempts, in between coming back to the Parliament in 2011 with the (new) Bill, were the many efforts, for example, when we held discussions in 1993 with GT&T and its principal shareholder ATN. We had also held discussions in 2001, 2003 and 2008. I would like to remind this House of one of the *Swords Of Damocles* that hung over our heads and I hope that it would not hang over your heads, but it was hung over our head of the People's Progressive Party/Civic (PPP/C) Government. I am going to give an example of that.

In the year 2000, we were able to lobby - the Government of Guyana and the Inter-American Development Bank (IDB) to have the Modernisation of the Telecommunications Sector Project - in which there would have been the preparation of a draft National Telecommunications Policy and a draft of the new Telecommunications Act. The Government faced litigation filed by GT&T and ATN in the US courts to block the efforts of the funding of the project by the IDB which was to encourage information and communications technology development. The Guyana Telephone and Telegraph Company succeeded and the Government lost the loan and so we continued to talk, despite a rather fractured environment in 2000 and post 2000.

We were furious about this because it was holding back the development of the telecommunications sector. In 2008, we continued to have discussions and so on. I just wanted to use these as a couple of examples that we were not just sitting there and waiting for something to happen. I personally know that, in 2011 and particularly in 2012, before the 2012 Bill came to the House, while we were waiting to debate it - because the Prime Minister had deferred the Bill three times before it was finally debated on 7<sup>th</sup> November, 2013 - we were still talking to GT&T and DIGICEL, trying to overcome the areas of the Bill where the two main providers had problems. As Members know, the parliamentary special select committee came about by a convergence of minds.

The Prime Minister had said that he felt the Bill should go to a special select committee. The main speaker for A Partnership for National Unity (APNU), Mr. Greenidge, was in full support and had believed that that was the correct way to go. Mr. Trevor Williams of the Alliance for Change (AFC) was strong on the Bill going to a special select committee. So there was this convergence of minds of the three parties agreeing that this Bill should go to a special select committee.

In the interim, the Prime Minister had made a huge document of further amendments on the 5<sup>th</sup> November, 2013. On 7<sup>th</sup> November, 2013 the Bill was debated and on 21<sup>st</sup> November, 2013, it went to a special select committee which had met from 21<sup>st</sup> November, 2013, until the recess of 2014.

In the Committee, Mr. Greenidge was the Chairman, the Opposition had the majority and the Government had the minority. It is true that the Government did make agreements on a number of things, but there were also as Mr. Greenidge knows issues that were not agreed on and were difficult.

I do not want to get into a debate on whether the 2012 and 2014 Bills were the PPP/C's and now that we have come to the 2016 Bill, it is PPP's Bill. That is hopeless; it is a total dead end that we are going down.

We have a Bill before us that has had the benefit of the contributions of a special select committee of the last Parliament. We have had three years within which to look at what is going on in this sector.

Therefore, I have walked, dutifully, with the *Hansard* of 7<sup>th</sup> November, 2013 and I must say that I was tickled on Saturday and Sunday nights looking at the speeches made by the former Prime Minister Mr. Samuel Hinds and of course, my dear friend Mr. Greenidge, who is across on the other side, Vice-President No. 2 and so on. I would encourage people to read the *Hansard* Part 2, 7<sup>th</sup> November, 2013, where my Hon. Friend had said:

“In this case there is a Minister with clearly superman's powers. The Minister's charge is to determine which telecoms network can be classified; to grant or to deny applications.”

Minister Greenidge, in his wisdom and I believe he felt passionately about it, went on for two more pages on the same issue, even going so far as to say:

“It is remarkable that there could be a Minister who may know very little about the sector that he is managing, given a technical sector such as this, and the power that is given to him is that he as the officer...The Minister shall ‘...determine which classes or descriptions, if any...’”

He said:

“...that there will be relevant technical bodies to do that and advice.”

[**Mr. Ramjattan:** That has tickled you.] Yes. It tickled me. It does not take much. Does it? My dear Mr. Greenidge was talking about “superman’s powers”. I would not spend too much time on that, except to say, that it is on record. Of course, Mr. Trevor Williams, a young man in the House, had also contributed on the same line as Mr. Greenidge, except that he did make a very interesting revelation. He said that, since the opening of DIGICEL coming into the market:

“Domestic rates: call charges have reduced from 44% per minute basis to \$20 charge on a per second basis, a saving of over 50% for customers ignoring the numerous ‘free after 3’ and ‘free after 2’ promotions.”

He also went on to speak about the activation fees and all that were reduced. It is important to go back to that as a historical reference to see where we were at that point.

However, the point is that there was an opportunity in this House and I was waiting with bated breath for the Hon. Minister to delight me and the public out there. [**Mr.**

**Ramjattan:** Tickle and now delight.] You have a dirty mind Comrade. You gave me a lecture about the word “monopoly” and I am giving you new words, such as “delight” and “tickled”.

I was looking forward to the Hon. Minister giving me an idea of the vision of where this Government wants to go on the telecommunications sector because, in all the speeches made in 2011 and 2012, both sides of the House came across with that and. Of course, its “It is Time” APNU/AFC 100 – day plan at number 19 states:

“Liberalisation of the Telecommunications and ICT sectors.”

[**Mr. Ali:** In a 100 days?] Well it was a little bit longer than that I believe. The People’s Progressive Party still believes very profoundly in the power of the telecommunications sector. In our vision, Guyana Version 2.0, in our 2015 Manifesto there are six or seven references to the telecommunications and ICT sectors.

So there are differences between the two issues. When we look at the APNU/AFC’s Manifesto, I was trying to prepare because I thought that the Hon. Member would have regaled us with the vision of the APNU/AFC Government in relations to the telecommunications sector. There is something called information and communication

technology, but ICT and telecommunications are not exactly the same. They interrelate, overlap and work together, but they are not the same. So the APNU/AFC's Manifesto, which has a nice picture of Mr. Nagamootoo and is titled *Our vision for unity, stability and development – It is time.*

Did anyone see it? Was that an airbrushed photograph my dear Friend? [Mr. Ramjattan: You are attempting to tickle us now.] I would try anything Comrade.

One of the recommendations:

“In this era of rapid technological change, APNU+AFC's vision is to...”

And it has about six or seven points to do with the ICT and then the Manifesto states:

“Make all of Guyana internet-ready via appropriate fibre optic cable connections – with the main cities and towns being internet hotspots and by cooperating with established service providers.”

So that is the vision, to establish service providers.

The Bill is major or historical step, but it has to be the legal framework for the vision. I heard comments about the fibre optic cables and yes we are troubled. I hope that the Government is able to solve it because the fibre optic cables, coming in from Brazil, are critical for internet connectivity for the country, for E-Governance, for the Government to be able to offer their services and for people to have access to services.

7.51 p.m.

We had problems and I wish the Government the best. However, I have not heard anybody talk about the Government's plans for fibre optic cable other than the Hon. Member, Mr. Harmon attacking us for failing. What are you going to do? How are you going to solve this? It is because we had problems.

For me, it is human to err. The issue is recognising our mistakes and being able to correct them. We developed a platform of fibre optic cables. If one reads the *Hansard* of 2013, there is an example of the GT&T fibre optic cable going down and, basically, all of the different services which were dependent on it, including that which was offered by DIGICEL Guyana, collapsed. We cannot be dependent on GT&T's cables. The Government or some kind of arrangement has to bring in the fibre optic cables from Brazil and from Suriname to be able



to connect all of Guyana from Moleson Creek to Georgetown, from Linden to Lethem, and so forth.

One of the revolutionary things which occurred by bringing in DIGICEL Guyana – it was U Mobile (Cellular) Inc. before that - was that...When one goes into the interior now...if one goes into Rupununi now...if one is outside of Lethem one cannot access GT&T's service. As one goes around the savannahs, there are "sweet points", which I thought were delightful. "Sweet points" are not my words. It is what the people call it. The "sweet points" are absolutely delightful. If someone is going around the savannahs and holds up a phone at a "sweet point", that person could make contact.

It is thanks to DIGICEL Guyana being able to expand and go into that area. DIGICEL Guyana could not get permission for landline service because of the GT&T monopoly, it could not have gotten international lines, and so they have been rather innovative. If it were not for that going on in the interior, many villages would have no access whatsoever to telephone and data services, other than the old radio systems, which we know about from the old days and which still operate. Fibre optic cable was one level.

The other level had to do with E-Governance and E-Government and being able to, in a small country with limited resources - human, technical, and financial - use technology for classrooms and for services – to get passports, birth certificates, *et cetera*. The One Laptop Per Family (OLPF) Project was one of these, with 50,000 people receiving laptops. It was to try to get our people to become computer literate and be hooked up. One of the important incentives was the call centres. There are Qualfon Guyana Inc. and Teleperformance, which is more recent. These are private telecommunication undertakings which do point to point transmission through satellite.

I believe Qualfon Guyana Inc. deals with GT&T through cable and it pays GT&T. Qualfon Guyana Inc., therefore, is not a public undertaking. It is a private telecommunication undertaking in the sense that its operations are internal. It is not issuing foreign service or data service to the Guyanese public. It is in a different realm. The call centres have provided over 5000 jobs in this country, within the last few years, and this is a major and important thing for our people.

We have had a radicalisation of the telecommunications sector. We are still not there yet, but it has done a lot. I was hoping that the Minister would have given us the latest figures, but in

the 2013 debate it was revealed that there were 600,000 cellular phones in use in Guyana as compared with 154,000 landlines. I am hoping that those numbers have gone up. Obviously, it means that, with a population of 747,000, the majority of people have cell phones; some people may even have two or three. These are very good things for our country and for the development of our country. These are not bad things.

It is sad that the Government side is not interested in using the opportunity of a special select committee. It is not to rehash what happened in 2014 and it is not to rehash what happened in 2013. There are some issues that have arisen which we have to address. I think the Hon. Member Mr. Ramson raised a couple of them, but I will come back to that.

I will give you an example. The *Guyana Chronicle* newspaper today carried an article about net neutrality. I do not know if the article is true. I do not know if the two service providers have a problem with net neutrality. The *Guyana Chronicle*, today, carried an article about the Bill being debated and stated that customers were complaining that DIGICEL Guyana had blocked GT&T's Mobile Money Guyana service from running on its network and, at one time, had blocked the mobile application from running. Subsequently, G&T reportedly censored a website by redirecting traffic users, who were trying to access the DIGICELgroup.com, to GT&T's website.

Therefore, the issue of net neutrality is a very critical issue and we must not, in any way, try to restrict access and the introduction of new applications and new services in the sector. We must not.

There are issues in the Bill that we must point out and some have been pointed out already. However, there are some that we have not dealt with as yet. Obviously, the 2012 Bill dealt with a Minister, a Director of Telecommunications and a Telecommunications Agency. It was seen as a purely technical body that would be dealing with these issues.

At that time, too, we were still dealing with the Broadcasting Bill, which came in 2011, and the Access to Information Bill. These three Bills were all tabled at the same time in 2011 and all followed each other in the debates and second and third reading. The idea was that Broadcasting Bill, the Access to Information Bill and the Telecommunications (Amendment) Bill would have all been completed in 2011 and therefore would have created a legislative framework. It is because there were areas where there may have been some intersection.

The Bill was amended in committee and I have no doubt that there were amendments that were accepted and those that were not. We have to understand something. When one takes a Bill that was for a Minister and a technical body and superimpose a board and the Minister on top, one would start to have all sorts of bifurcation issues regarding what is really the Minister's roles, what is really the Agency's original role, which in some cases would become the Minister's and/or the Board's role. What has been reproduced is a rather overly bureaucratic model which is in front of us today.

The Hon. Minister Greenidge said that we had agreed to it. I never believe that anything stays the same. Therefore, I believe that whatever were the good intentions of the Members of the Committee, the result, the language that is there, is overly bureaucratic. I would go to the clause that the Hon. Member referred to – clause 19. I can prove a point to show that the matrix that the Hon. Member is talking about... I have a copy too. Clause 19 (1) (b) :

“subject to subsection (5) and after receiving the written analyses, advise and recommendations of the Agency, make final determinations regarding - ...”

This is the Minister's role. This particular phrase was not in the Bill that was considered by the Select Committee. When one looks at subsection (5), it is the Minister. It states that where any determination, decision or direction of the Minister on a matter for which he is required to seek advice and it differs materially from such, he should put into writing, *et cetera*.

That subsection actually is before Clause 19 (1) (b). Clause 19 (1) (b) states that, having gotten those advices and even when he differs materially from that, and even when he writes why he differs materially from it, final determination is his. Therefore, he goes into the very extensive areas of granting and denying applications, telecommunications network that should be classified or reclassified, telecommunications that might be operated, the instances in which a competitive process would be utilised to select licensees and authorisation holders and the Universality Fund.

The Universality Fund I have not heard much discussion on, but I believe it is an important intervention that was put into the Bill. It is because it allows for where there are gaps, where it may not be profitable for service provider to offer services in certain parts of Guyana or very far regions. Therefore, the Universality Fund would allow the Agency, by whatever means, to be able to do so and to make sure that the people are not left out of the system.

A lot has been said about the Minister's powers and the Board. I would not go into that other than the issue of clause 19, sub clause (1) (b).

When one looks at clause 29, again this was not in the Bill that was considered by the Committee. This has to do with disclosures. The clauses prior to this clause were in the matrix. They had to do with interception of communication, *et cetera*. In clause 29, sub clause (2) it provides for disclosure of list of users, including directory access databases, for the publication of directories or for such other purposes. It is that phrase "or for such other purposes" that is the cause of the problem; not the part about directories.

Why do I say this? There have been major court cases overseas, for example, Google, being called on by the Federal Bureau of Investigation (FBI) to give encrypted information on users of the system. Google has fought it and the providers have fought it. Therefore, one cannot say that that would not happen in Guyana. Why not? Therefore, I am saying that the clause "or for such other purposes as the Minister or the Commission may specify" needs cleaning up. For example, if someone asks the Government for access to one of the providers' access database, in order to have this paragraph remain in the Bill, it should have the inclusion of a phrase that one should have to approach the court for permission, as in the inception of communication.

**Mr. Speaker:** Hon. Member, you have almost reached the allotted time given for you to speak.

**Mr. Ali:** Mr. Speaker, I beg that the Hon. Member be given 20 minutes to complete her presentation.

**Mr. Speaker:** Hon. Member, you have 15 minutes to complete your presentation.

*Question put and agreed to.*

*Motion carried.*

**Ms. Teixeira:** Thank you, Mr. Speaker. A number of our speakers have cut the time of their presentations, as you would have noticed. Clause 29, sub clause (2) is a problem. I do not want to go through all of them but clause 93 deals with an important issue. Clause 93 is a clause to which the Committee did make changes in relation to the issue of the "appointed day".

Now, a lot of this questioning in 2016 may have been alleviated with the circulation of the draft regulations for the Telecommunication (Amendment) Bill. We know that it is ready. It has been ready since 2012. I assume that there have been consequential changes as the Bill has gone through other changes. Some of the issues can be addressed if one sees the regulations. It is not unusual in a special select committee for the draft regulations to be shown to make sure that they are in compliance or satisfy people's concerns.

8.06 p.m.

We do not know where the regulations are.

Clause 93 deals with the "appointed day". In the previous Bill, what was clear was that the "appointed day" allowed for the service providers who were already in order to have their licences terminated and given out under the new Bill. This is why I think that the Government has not resolved the issue. One of the problems that we were trying to deal with, with DIGICEL Guyana and GT&T is the fact that DIGICEL, for example, does not have an international licence and does not have a landline licence.

The way this is crafted, as distinct from what was in the 2012 Bill, is that it deals with the *status quo ante*. In other words, whatever DIGICEL Guyana, GT&T and the other operators have now, when the "appointed day comes"...What is the appointed day? It is when the Minister signs the commencement order to bring the Bill into operation. On that appointed day, everybody's licence would be terminated and then reinstated, but with what they had before. There are also other clauses that were added by the Committee which cause some concerns. There is the issue of someone having a licence but the Minister having no knowledge of that or not having been notified. That is very strange language in law.

Clause 93 is very important. In fact, clause 93 was critical in the old Bill and in the 2014 amended Bill. Clearly, when one looks at clause 93(d), there is the issue of companies having to go and apply for additional licences. I just have an observation, which may be wrong, and I hope I am wrong. With the language that is in the Bill, the Government could end up in a situation, as we did, where it is caught up in litigation when it moves to give DIGICEL Guyana - I am just using that hypothetically - an international licence and/or a landline licence. It is because the way the legislation is written at 93(d) is that a holder has a 90-day period within which to apply. There are processes and things that could happen in that 90 days that could actually stop or stall one's application.

In addition, clause 93(4) (k) deals with the Guyana National Broadcasting Authority (GNBA). Again, it is the same thing. All those who have broadcasting licences, on the “appointed day”, would face the same fate as the telecommunication providers.

In closing, let me just pose some questions to Minister Catherine Hughes. I want to assure the Minister that if the questions we are asking are satisfactorily answered, then we can, on this side of the House, fully support the Bill. However, we insist that both Bills go to a parliamentary select committee. **[Mr. Williams: Again?]** Yes. It is now three

years later. It is not do that, done that, later. It is three years later. Things have changed. The telecommunications sector has changed in this country. Forget about in the world. The questions I wish to pose to the Hon. Minister are: **[Mr. Ramjattan: You still want**

the fibre optic *[inaudible]* It is you who would do the fibre optic cable now, my dear. I am not in Government. We on this side are not in Government. You fix it. We failed. You fix it. Do you not think that you need a fibre optic cable?

Anyway, I do not wish to be distracted. If my Colleagues on the other side are saying that Guyana does not need a fibre optic cable in 2016, Lord, God, help us all! Minister Catherine Hughes, please let these men stop interrupting me. They do not like when I talk to the women in this House!

Hon. Minister, Ms. Catherine Hughes, what provisions are there for regulating services, internet and broadband? What would the Board or Agency do if the service providers do not maintain the services? I know that you and I have commiserated, Hon. Minister, Ms. Catherine Hughes, about our internet connections and how we go bonkers about getting knocked off all the time and trying to open files. In fact, I have threatened to reduce the fee - because I am paying \$10,000 and I am getting worse service than when I was paying \$5,000. I might as well go back to paying \$5,000.

What recourse is there for clients who suffer from poor quality services, for example, internet data?

On the net neutrality issue, Hon. Minister, are there specific provisions for carriers who block services and applications on their networks? There is a broad provision in clause 73 or 74 about the penalty, if one does so. We are talking about the provisions to allow for...In this modern age of information, there should be no restriction on accessing new services and

applications. It is so that there could be an opening up of the telecommunications sector. We should not find that we are being restricted or blocked in any way.

Is there technological neutrality and non-discrimination in the issuance, monitoring of licences and frequency authorisations and the interconnection of access to telecommunications networks and services? These are the areas to do with non-discrimination that need clarity. This is a technical Agency being headed by a Board that is not technical in which these are issues that are subject to subjectivity.

Bypassing: Hon. Minister Catherine Hughes, has the Bill adequately dealt with bypassing? Is the Government proposing that telecommunications providers be allowed to have bypass and pay tax? GT&T, it is said, through ATN, has an international licence and, therefore, bypasses. A number of the services are operated through a connection, technologically. There are also accusations that DIGICEL Guyana does the same. In the law, is there really anything to do with bypass? How would the law allow for this? The law should, if it is possible, and once it does not interfere with our access to services. What taxes are going to be paid on this? Are there going to be taxes or is it all free?

If the Telecommunications Agency is the technical regulator into which the NFMU would be incorporated, and the PUC is the economic regulator, why is there no technically defined NFMU expert in Part II of the Bill? That is the part that deals with the Board and the Agency. Under the Broadcasting Act, NFMU was like the stepchild. When one applied for one's broadcasting licence, the NFMU looked at issues relating to spectrum, frequency and technical matters and then recommend one to the Broadcasting Board. In this case, Hon. Minister, broadcasters and telecommunications service providers, and undertaking, as is stated in the Bill, all go to the NFMU and the NFMU would then send their views to GNBA and also to the Telecommunications Agency. A lot of focus has been on telecommunications but not on frequency management. A higgledy-piggledy amendment was inserted but we have not done due respect to the fact that national frequency and our spectrum is a national asset. How are we going to work now that the NFMU would be dealing with two agencies – the Broadcasting Authority and Telecommunications Agency? In what way do they work?

In addition, how would the NFMU and the very technical issues of the NFMU be handled with the Board? Could the NFMU head also be a member of the Board, even as an *ex officio* member? Are there provisions, in the Telecommunications (Amendment) Bill to give the PUC powers to properly regulate the telephony and new modern technologies?

If we were in Government, we had intended to grant DIGICEL Guyana, on the “appointed day”, an international licence and likely a landline licence along with other licences. Clause 93 as configured now, and this is how I had interpreted it in my speech, states that DIGICEL would have to apply for these additional licences. Therefore, fundamentally, the situation has not changed in relation to the three or four telecommunications undertakings in the country right now. Therefore, the original clause in the 2012 Bill gave the Minister some authority to make determination with these providers who are traditionally in this sector and waiting to be regulated. They could not be regulated properly because of the monopoly of GT&T.

How would the Guyana National Broadcasting Authority and Telecommunications Agency address applications for spectrum with regard to broadcasting? I had asked that before.

The next question is: when would the regulations for the Telecommunications (Amendment) Bill be laid in the National Assembly and be sent to the Statutory Instrument Committee for examination? It is so that we could try to make sure that the regulations do match what has been said in the House and what had been promised in the House and what, in fact, is in the Bill, which I have no doubt would be assented by the President.

The last question is on “number portability”. This was something that I know was debated in the last Committee. As the world goes on, number portability is a going thing. In fact, it is an attraction for incentives and an attraction for expansion for business and so forth. Has the issue of number portability been addressed in the Bill - we could not quite find it; maybe it is there - and/or is it in the regulations? Hon. Minister, those are about 12 questions I have asked. We feel that they are not *flash in the pans*. We are not trying to make your life difficult. Some Members on the other side seem to think this is a joke.

The Telecommunications Agency has extraordinary opportunities for us as an English-speaking country and our geographic, strategic position on the North Eastern Coast of South America. This is not just about what is here. In this case, we may not be limited by the size of our population and we would be competing in a world market where we would be dealing with giants. Our strategic and geographic locations and the fact that we speak English in a continent of non-English speaking countries is an advantage, we cannot lose when we are talking about the telecommunications sector.

Hon. Minister, with regard to the Bill that you have brought to this House, we believe, strongly, regardless of how amusing some of our Colleagues on the other side have found



this, that more in-depth examinations, in a less fractured way, where we are talking about the liberalisation of a sector is needed. I am glad that we have reached this point. It is the furthest we have reached. Things have happened in the last three years and we need now to make sure that we are able to do that.

Basically, there are two main giants in the sector - GTT and DIGICEL Guyana – and others that need to be freed up. They need to be unleashed, in a sense. So, it is critical that not only one gets an international licence, but the other one does too. If you could give a commitment that this is the direction in which your Government is going, regardless of what is written in the Bill, we would be very interested to hear that. Mr. Speaker and Madam, thank you very much. [*Applause*]

8.21 p.m.

**Mr. Speaker:** Hon. Members, it is now 20 minutes after 8 o' clock. It seems to me that we can allow the Hon. Minister to conclude her presentation on this Bill and then we can take the break.

**Ms. Hughes (replying):** Thank you, Mr. Speaker and all my Colleagues who have made their comments and suggestions with regard to our new Telecommunications (Amendment) Bill. I must admit, though, that, on several occasions, I was near to convinced that some of the Members on the other side did not read the Bill or were speaking about another Bill. I think, in my explanations, I would be able to highlight some of those.

I want to start with the Hon. Irfaan Ali and the definition and worry with regard to the power of the Minister. I know that that has been a discussion in this debate today in great detail. One of the things that I think we missed is that in Part III, clause 19. (1), there is a very important word at the end of the line and that word is “shall”. If one does a very quick Google search of what the word means, which I did, the dictionary definition states: “Expected to do, required, and absolute”.

Therefore, I want to remind the Members on the other side that when the legislation states that the Minister shall, after seeking written advice and recommendations of the Agency and Commission; and further on talks about having receiving written analyses, advice and recommendations; and then even further on, in section 4,... whereas we have heard before from my learned colleague the Minister of Foreign Affairs that where determination, decision or direction of the Minister on a matter for which he is required to seek advice or

recommendation. We heard that the Minister shall so indicate and provide reasons thereof in such determination, decision or direction. I highlight that to say that the Bill goes to the extent of highlighting that the Minister cannot act on his own.

The Jamaicans have a saying that goes, *do not fry me in your own fat*. I worry that maybe some Members on the other side, because of their own practical past experiences, might be worried as to how we, on this side, will operate. My good friend, Hon. Member Ali, also listed, in great detail, “the actions taken by the PPP Government throughout the years”. He talked about them wanting liberalisation and yet they missed the most fundamental issue with regard to this Bill. This Bill *sat* down for years upon years. Whilst it *sat* there, the technology changed rapidly and the only thing that we know for sure that has not changed is that Guyana has continued to lag behind. I say to the Hon. Member, I wonder why, as we have said on many occasions, your Government did not bring this same Bill a lot sooner to this House.

When we talk about the commitment to the private sector, which, again, was being shouted down about, I want to remind that it was the former President, the Hon. Leader of the Opposition, Mr. Jagdeo, who closed down all the cable systems in 2010, so much for supporting the private sector. It was he who later reopened the opportunity for licences, allowing new entrants, including a very, very close family member of a friend of mine on the other side, who, today, continues to be a very dominant partner in our current system.

We must also remember that the cable system in Linden was also closed down. My point is that, at the end of the day, we talk...

*[An Opposition Member left the Chambers.]*

I would expect you to do nothing but leave. It is not a problem at all. I am using this opportunity to speak to the same people of Guyana, who I have been speaking to for months, on the same vision for this new telecommunications industry and for the same Bill. I would not even touch the issue of licences for radio and television. We do not even want to go back there. That is so much so for the private sector.

We heard about the moral dilemma. There was US\$42 million wasted. A cable that costs US\$6 million dollar for which we have no use is a moral dilemma. I would like the Hon. Member, I am sorry he is not in here, to speak to the people on that. This is where then Hon. Mr. Hamilton on the other side said, “talk to the people out there”. Mr. Hamilton, I am sorry that you do not have the opportunity to respond to the moral dilemma that left this country

and every succeeding government in a position without a fibre optic cable that could have provided enhanced Government services. Somebody mentioned passports. Passports are an excellent example. Had we had a functioning fibre optic cable, the Government would have been able to provide better services to the people of Guyana. Guess what? It is in the train. My Colleague next to me has mentioned it to me already. In addition to being able to access an application form for a passport on the internet, we intend to go further. We are going to ensure that in the services Government provides to the citizens of this country, they would be able to do almost 9/10ths of any transaction on the internet prior to them going into the office.

Then, Members talked about how terrible the monopoly has been. We agree that we want to liberalise this landscape. What, also, is very interesting is that, in 2010, when the monopoly came to an end, absolutely nothing was done and the monopoly just rolled over and continued. I do not know whether it was an issue of capacity, but I am happy to say that we are well on our way to ensuring that we find solutions.

Hon. Member Hamilton, I am very happy that you support the concept of net neutrality, which you would have noticed is very clearly defined in the legislation. It is unambiguous. It states absolutely clearly that there should be no discrimination in the content and the manner in which information is given to the citizens. At the end of the day, we are ensuring that every citizen is going to be able to gather information from the internet, unimpeded.

I know that the Hon. Member Gail Teixeira also talked about net neutrality. The definition is so clear in the legislation that I really do not think there is anything else that we could say.

Regarding the Hon Member Ramson, I can only say that this Member did not read then legislation and did not have a copy of it. I think I have two copies. We can share. The Hon. Member clearly got confused and said that the Minister should not be driving the liberalisation process but that the Telecommunications Agency should. Clearly, the Hon. Member does not recognise or has not read the clause which states that once the liberalisation takes place, once this Act is passed, automatically the Telecommunications Agency comes into being. Therefore all succeeding entities and articles in this legislation explain the role of that authority.

The other thing that I found very strange was that the fact that Members could not work out the cost of a one-minute telephone call. I do not know about anybody else but I certainly get a bill every month. Many people here get bills. Believe it or not, if one is smart enough and

precise enough to have signed up for the service online, one could go online and even the most unsuccessful student could do a quick calculation because there is duration and a cost on one's bill. So, it would be easy to work out the cost of a one-minute call. Again, these are things that are a little confusing.

The Hon. Members Ramson and Teixeira talked about number portability and the non-discrimination clauses which, in fact, are in the Bill in clause 41. Spectrum auctioning is catered for in clause 44.

When we come to talking about cyber-attacks, it is stated very clearly, in many of the clauses, that in the interest of national security, there is an option for the President or the Minister to exercise and to take charge. Again, I am not sure about what the Hon. Member said.

One of the Hon. Members went into great detail about the directories. That, in fact, is catered for in clause 43. Public operators are required to provide free online or, on request, printed directories.

I know there was an issue about the bypass and how we would deal with a company that is requesting or deliberately implements a bypass. The reality it is that that it is one of the most important thing about this legislation. In a liberalised environment, all players who are interested can come forward and would be able to apply for a licence. Therefore, there would no longer be a monopoly on landlines, international calls or even on data. Therefore, none of the players would need to get into the issue and to take the legal risk of implementing a bypass.

At the end of the day, net neutrality is one of the key areas that I think the legislation highlights the ability to be thinking forward on. In fact, we have done some research and this piece of legislation is really quite ahead of the legislation in many other Caribbean territories. There is a big movement right now in several of the OECS and also in Trinidad and Tobago. What, in fact, is happening is that they are now relooking to their legislation to make amendments and they are looking at the issue of net neutrality. As I said before, we have left it so that the access the access to information that any individual receives, whether it is a specific software programme, whether it is phone call, whether it is data, this legislation and our definition of net neutrality ensures that you, as a citizen, are protected and will have access to all information. Nobody is going to be able to slow down the speed in which data is

transmitted from a particular site that a telecommunications operator might not be too happy that some is utilising, for example.

*8.36 p.m.*

One of the things that I want to mention is that this is the legislation. We are already working and making rapid progress on the recommendations – the Regulations that go with this.

As I said in my speech, there are seven different sets of Regulations. We intend to ensure, as we have done every step of the way, that there is adequate consultation by all stakeholders on the Regulations also.

I want to bring this session to an end in terms of my presentation. I do want to say that I know that my Colleague, the Hon. Member, Ms. Teixeira, talked about the fractured nature. That is, in fact, one of my biggest disappointments. She actually advocated that, because of our fractured nature, this Bill and the Public Utilities Bill, which she mentioned, should go back to a select committee.

Today's debate has demonstrated that we do not have the ability to transcend our differences and our political opinions in the name of producing something that is good for Guyana, regardless of who worked on it.

I started off my presentation by thanking the Members on the other side. I would again thank the Members on both sides, all the stakeholders, all the Select Committee Members and everyone who participated in ensuring that we have a good Bill.

I regret that the tone of this debate could not have been more productive and precisely because it is so fractured and because the world is moving ahead rapidly. Because of a vision, this Administration sees us using broadband technology and the internet and competition in this field as a way of ensuring that an individual that is sick in Nappi has access to the internet and to probably have a one-on-one conversation with a doctor prior to getting the medical attention that is needed. Or in the case of the lady I met in Surama, who offered me the most beautiful hammock that I purchased, unfortunately for her, she is dependent on selling only when somebody walks through her village. With a Facebook page, maybe she will have the possibilities of selling even more hammocks.

When we talk about the challenges of education of schools in our hinterland and our remote communities where there are insufficient teachers for the last two decades, where there are all

kinds of challenges with resources, we want to use the technology; we want access to the internet not only for electronic commerce but for learning, training and development.

I therefore say that we have outlined the vision for this sector over the last year. I have spoken about it over the last six months. Again, I say, in closing, that I plead with the House for us to pass this Telecommunications (Amendment) Bill – Bill No. 15 of 2016. Thank you, Mr. Speaker. *[Applause]*

*Question put and carried.*

*Bill read a second time.*

**Mr. Speaker:** Hon. Members, I believe this is a suitable time for us to...unless Members feel that we should complete; then, of course, we go right through. We will complete the Bill.

*Assembly in Committee.*

**Part I - Clauses 1 and 2**

*Part I agreed to and ordered to stand part of the Bill.*

**Part II - Clauses 3 to 17**

*Part II agreed to and ordered to stand part of the Bill.*

**Part III - Clauses 19 to 22**

*Part III agreed to and ordered to stand part of the Bill.*

**Part IV - Clauses 23 to 37**

*Part IV agreed to and ordered to stand part of the Bill.*

**Part V - Clauses 38 to 40**

*Part V agreed to and ordered to stand part of the Bill.*

**Part VI - Clauses 41 and 42**

*Part VI agreed to and ordered to stand part of the Bill.*

**Part VII - Clause 43**

*Part VII agreed to and ordered to stand part of the Bill.*

**Part VIII - Clauses 44 to 51**

*Part VIII agreed to and ordered to stand part of the Bill.*

**Part IX - Clauses 52 to 55**

*Part IX agreed to and ordered to stand part of the Bill.*

**Part X - Clauses 56 to 58**

*Part X agreed to and ordered to stand part of the Bill.*

**First Vice-President and Prime Minister [Mr. Nagamootoo]:** Mr. Speaker, I crave your indulgence. I know that we have voted on the provisions but there is a clerical error on Part IX. It should be Part IX but it states Part XI.

**Mr. Chairman:** I am grateful for the observation. Hon. Members, the Part covering clauses 52 to 55, which we have already voted upon, should read Part IX rather than Part XI.

**Part XI - Clauses 59 to 66**

*Part XI agreed to and ordered to stand part of the Bill.*

**Part XII - Clauses 67 to 81**

*Part XII agreed to and ordered to stand part of the Bill.*

**Part XIII - Clause 82**

*Part XIII agreed to and ordered to stand part of the Bill.*

**Part XIV - Clauses 83 to 95**

*Part XIV agreed to and ordered to stand part of the Bill.*

*Assembly resumed.*

*8.51 p.m.*

**Ms. Hughes:** Mr. Speaker, I rise to report that the Telecommunications (Amendment) Bill - Bill No.15/2016 was considered in the Committee, clause by clause, and was passed without amendments. I move that the Bill be now read the third time and passed as printed.

*Bill reported without amendments.*

**Ms. Teixeira:** Mr. Speaker, under Standing Order 58, I would like to move that the Bill goes to a parliamentary select committee.

**Mr. Speaker:** Do you wish to speak, Mr. Ali?

**Mr. Ali:** Thank you, Mr. Speaker. I wish to second the motion by the Hon. Gail Teixeira.

**Mr. Speaker:** Thank you very much. There is a motion on the floor that the Bill be sent to a Select Committee.

*Question put.*

*Motion negatived.*

**Mr. Speaker:** The question is that the Bill be read a third time and passed as printed.

*Question put, and agreed to.*

*Bill read the third time and passed as printed.*

**Mr. Speaker:** Hon. Members, at this stage, we will take a recess and return at 15 minutes after 9.00 p.m.

*Sitting Suspended at 8.54 p.m.*

*Sitting Resumed at 9.30 p.m.*

## **MOTIONS RELATING TO THE BUSINESS OR SITTINGS OF THE ASSEMBLY AND MOVED BY A MINISTER**

### **SUSPENSION OF STANDING ORDER NO. 104(9)**

**Mr. Speaker:** Hon. Members, I have given consent, in accordance with Standing Order No. 28 (2), for the Hon. First Vice-President and Prime Minister to move the following motion.

**Mr. Nagamootoo:**



“BE IT RESOLVED:

That Standing Order No. 104 (9) be suspended to enable the Assembly to proceed at its Sitting on Monday 18<sup>th</sup> July, 2016, today, with the adoption of the second report of the Standing Committee on Appointments to address matters relating to the appointment of the Director and Deputy Director of the Financial Intelligence Unit, which was presented to the National Assembly at today’s Sitting.”

*Motion proposed.*

**Ms. Teixeira:** Mr. Speaker, I have already indicated to you that I am very uncomfortable with the suspension of the Standing Orders that have been laid in this House in the course of this Sitting when I believe that there is ample time to have sorted this out. However, I have an additional problem, Sir. And that is that the suspension of the Standing Order is to deal with the adoption of the Second Report of the Standing Committee. However, according to the Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) (Amendment) Act, we have to pass with a motion. The suspension of the Standing Order does not speak to the suspension of the Standing Order to do with the motion. So I am assuming that the motion will be dealt with at the next sitting. It is the 18<sup>th</sup> July, 2016, and so that is today’s date, and whilst the Government can bring a motion, it does not usually bring a motion on the said date of the Sitting.

I am in a bit of a quandary because the suspension is dealing with the Report and there is a motion that is circulated but there is no issue, as far as I am concerned... If I take this literally, that is, the motion to suspend to allow the Report to go through, then we will deal with the Report but not the motion. Whilst the Report can be adopted by the House, it is the motion that has to be a resolution of this House to indicate, under the AML/CFT, that that has the support of the House. So, I am a little bit confused; excuse me. And, as I said in the beginning, I am very uncomfortable and I have expressed this to you, Sir, about suspension of Standing Orders in the middle of a Sitting and not before. It is highly irregular, as far as I am concerned. Thank you.

**Mr. Speaker:** I thank the Hon. Member.

Hon. Members, as I understand it, Standing Order 104 (9) is to suspend the requirement of one day’s notice for the motion. After this motion for suspension is taken, and assuming that it is passed, we will do the Public Utilities Commission Bill and then we return to the

appointment of the Director and Deputy Director of the Financial Intelligence Unit (FIU), which is not a motion.

Does that help to clarify your...?

**Ms. Teixeira:** Standing Order 104 (9) goes on to state that such a motion may be moved by any Member after one day's notice. The Report is dated 18<sup>th</sup> July, 2016, the suspension of the Standing Order is 18<sup>th</sup> July, 2016 and the motion, which we have not come to yet but which I am raising, is also the 18<sup>th</sup> July, 2016. So, where is the one day's notice under Standing Order 104 (9)? I need guidance.

**Mr. Speaker:** Hon. Member, the suspension is to effect that change; it is to suspend the requirement of the one day's notice. That having being suspended, assuming that the House passes that motion, then the motion which speaks to the appointment of the Director and the Deputy Director can properly be before the House. Does that clarify the question?

**Ms. Teixeira:** Mr. Speaker, I understand the suspension of the motion to do with the adoption of a report but the Standing Order also goes on, in the next sentence, to state that such a motion, that is a motion to suspend and adopt a report, may be moved by any Member after one day's notice. We do not have the one day's notice; and that is to do with the report. The issue of a motion, which is a motion to do with the actual decision or recommendation of the Committee as distinct from the report which is being circulated here today, also requires a one day's notice, as far as I am aware, unless we are suspending that. The suspension motion does not address the motion, whatsoever; it is only the Report.

If we are suspending the Standing Orders to allow for the Report to go through, there is no suspension motion to allow the motion to go through. That is the motion on the Committee on Appointments. Do you understand? So, there is a motion here on the adoption of the Second Report of the Standing Committee, in which the heading is different than what was approved in the Committee. So, I hate to be a nitpicker but the motion that was drafted in Committee is talking about the Committee on Appointments' nominations for the Director and Deputy Director of FIU; it is not to do with the adoption of the Report.

Are we saying that this suspension motion for the Report includes the motion and the Report?

[**Hon. Members:** Yes.] But it usually does not; they are two separate things and they are debated separately. They are debated conjointly, but separately. So, in other words, the motion is voted on separately and the Report is voted on separately; it is not together.

**Mr. Nagamootoo:** If I may be of any assistance to the House, section 8 (1) of the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act No.1 of 2015 states:

“The National Assembly shall -

- (a) by a simple majority; and
- (b) on the recommendation of the Parliamentary Committee on Appointments, appoint the Director and Deputy Director of the Financial Intelligence Unit.

The Report that was tabled earlier is a report of the Committee on Appointments in relation to the appointment of a Director and a Deputy Director of the Financial Intelligence Unit (FIU) within the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act No.1 of 2015. It seems to me a trite interpretation that the motion that I have just moved before this honourable House is asking that the recommendations of the Committee on Appointments be adopted and approved. That is the motion. I do not see two separate procedures because the appointment is contained in the recommendation therein the Report.

*9.42 p.m.*

**Ms. Teixeira:** Mr. Speaker, the motion approved in the Committee is headed up:

“A notice of motion being moved in the National Assembly by the Hon. Dr. George Norton, Minister of Public Health, Chairperson of the Committee on Appointments...”

And then it has the clauses that are here, but it is not the motion for adopting the Report. I must say that, when we dealt with the Rights Commissions, we always had to have a motion and a report. The motion encompasses the report and not the other way around. This is the suspension of the Standing Order to adopt the Report. It is a suspension order to adopt the motion which adopts the report. There is a slight difference. If you are changing the way we are doing things, and in a last-minute way, you are catching some of us on the back foot. Over the years, we have done this in a particular way. If now things have been changed because it is expedient for some people on the other side, we need, at least, to be given advanced notice.

In the motion, it calls for the adoption of the Second Report. The motion has the names of the persons for Director and Deputy Director. This suspension order talks about the adoption of the Second Report. The motion talks about two people we are calling upon the House to support under the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act and to adopt the Report. They are two different things. There is no motion for the adoption of the Report other than the suspension motion to adopt the Report. If we want to do things differently, then let me know.

**Mr. Speaker:** Hon. Member Ms. Teixeira, I wonder whether a complete reading of that says a different story. You stopped at “motion”. You said, “...the Standing Order be suspended to enable the Assembly to proceed at its sitting today with the adoption of the Second Report of the Standing Committee on Appointments to address matters.” It goes on to state the purpose of that Report. Then the motion, speaking to that particular issue, is the next part of it, which is a motion which has not yet been put to the House. It could not be put to the House until there is agreement on the suspension. For it to be put to the House without the suspension suggests that we have fulfilled the requirement of at least one day’s notice.

**Ms. Teixeira:** Mr. Speaker, just indulge me a little bit more. We have, on the Order Paper, the Report of the Committee on Appointments dated 27<sup>th</sup> April, 2016 and the nominee for the Local Government Commission and a motion calling on the House to approve the name that is being supported by the Committee and to adopt the Report. There are a motion and a report. The Report is debated and the motion is what is passed in this House. If you look at the matters on the table, this Local Government Commission has been waiting for months on this Committee with no suspension of the Standing Order. So I assume the Government is not in a rush to do that. If you look at the other Committee Reports that are there, there are motions to adopt the Report. All I am saying is that this is a nomination and, if we are changing what we do, then we do not need to bring motions anymore to do with these things. When we did the Rights Commission, we put up all the names and there was a report that had to be adopted that was kind of conjoined with the motion. We are not saying to adopt the Report and that would be the motion, which is not. You cannot get a resolution from a report other than to say that the Committee adopted the Report. What the House needs is a motion that has the resolution of the House that states that we adopt the motion in which X and Y are now the Director and Deputy Director of the FIU. I hate to belabour a point but that is how I see it.

**Mr. Speaker:** Hon. Member, I addressed the particular issues you have raised. As I understand the documents I have before me, there is the Second Report of the Committee on Appointments, and I believe you, Hon. Member Teixeira, have that document too.

**Ms. Teixeira:** The Report was circulated this afternoon.

**Mr. Speaker:** Yes. The purpose of the motion which was moved by the Hon. Prime Minister for the suspension of the Standing Order relates to that Report which you received this afternoon. The suspension is to enable that Report to be received.

**Mr. Nagamootoo:** Mr. Speaker, if you would indulge me once again on the matter, I believe that when I spoke, previously, I might have explained that the adoption of this Report on the Committee on Appointments would have dispensed with the matter of the motion. I wish to amplify that the motion could not be dealt with unless there is a clearing House procedure that the Report, wherein the substance of the motion is contained, is adopted as is done with Minutes of a meeting. The adoption is for some other process, either for discussion or matters arising, *et cetera*. It is a matter of interpretation that, once the requirement of notice is dispensed with, then the House would be competent to adopt the Report. Having adopted the Report, it then paves the way, as was stated on the Order Paper, for the motion to deal with the specific aspect of the recommendation to be dealt with. That will then be the other consequential part of the process of giving effect to the Section in the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act, the requirement of the Act itself, to have the motion approved. I see one paving the way for the completion of the process and not two separate processes.

**Mr. Speaker:** I thank the Hon. Prime Minister. Hon. Ms. Teixeira, does that comment made by the Prime Minister set at rest the questions you may have?

**Ms. Teixeira:** No, Mr. Speaker. As I said, we have other Committee Reports and I would be interested to see, when we get to those, how we deal with the motion on local government and the Report on the Committee on the local government nominee. That is based on the practice. I will say nothing further because that submission on 27<sup>th</sup> April to this House is how we normally do things. I do not understand the Prime Minister's presentation because, normally, when the Minister tables the report of a Committee and the motion is also circulated on notice, it goes on the Order Paper. Committee reports go to the end of the Order Paper and, if there is a motion specifically to do with Rights or Service commissions, that

goes under government motions or sometimes committee. We have kind of arbitrarily put them together but, in fact, they are not. I will just sit and watch when we come to the Local Government Commission, whenever we do that. I hope that the Hon. Mr. Harmon has noted that the Report for the Local Government Commission has been in this House since 27<sup>th</sup> April, despite the comment he made to the press that it has not been sent by the Committee as yet to the House. Thank you, Sir.

**Mr. Speaker:** Hon. Member Ms. Teixeira, I thank you but I will say this again: the motion for suspension relates to making the Second Report of the Committee on Appointments available to the House. It could not be treated otherwise. If the suspension is not approved by this House, then it cannot go ahead. If the House approves this, then the Report is a proper document for consideration by the House today.

The other part, the motion which, as I understand it, allows then for discussion will be taken later in the evening after the next Bill is considered by the House. Assuming that the House grants the suspension, the requirement of one day's notice is dispensed with. The motion which will name the two officers of the FIU will then be discussed towards the end of our work this evening. That is the best way I believe I can explain it. If you find that there is something else that should be done, we would all benefit from that suggestion. Is there something else that you find, Hon. Member Ms. Teixeira? I am assured that the procedure followed here is the procedure that obtained in every instance until tonight. If there is another procedure which you know and feel is not being followed, then it would be helpful if you would let the House know that.

**Ms. Teixeira:** Mr. Speaker, I am not aware of any other option. However, I am very displeased about the suspension order and, therefore, the manner in which it is done I do not agree with, but I have no alternative to suggest.

*9.57 p.m.*

The suspension orders can be made in the House. I just believe that there are too many suspensions orders, at short notice, being brought to the House. This is the tenth suspension order that has been brought to this House in a matter of one year. So, I am recording my displeasure and that of the Comrades, on this side of the House, but I am afraid that I have no alternative means to offer. I accept that the majority rule and we will proceed as you direct Sir.

**Attorney General and Minister of Legal Affairs [Mr. Williams]:** Just to clarify one issue, the Hon. Member relied on the first Report of the Committee on Appointments and proffered to distinguish it from the second report. I have a copy of the first report and I am respectfully submitting that it is the same as the second report. The difference between the two reports is that, what was in the second report was merged into one in the first report. Both are asking to adopt and, in the case of the first report it is being requested that the union official be nominated to be a member of the Commission. The other one, merely, separated the adoption and in the second resolve clause the two persons were named. There is nothing wrong with the two procedures. With the suspension having been taken, we could properly proceed on this motion. We have taken suspensions at all material times in this Parliament. We have taken suspensions to reverse and turn the agenda up-sided down, so there is nothing wrong with the procedure that has been adopted tonight.

Thank you very much.

**Mr. Speaker:** Hon. Members, the motion, which was presented to the House by the Hon. Prime Minister, is now proposed.

*Question put and agreed to.*

*Motion carried.*

**Mr. Speaker:** Hon. Members, the motion for suspension of the Standing Order was carried and we will act on that after our consideration of the Public Utilities Commission (PUC) Bill.

#### **SUSPENSION OF STANDING ORDER NO. 10(1)**

**Mr. Speaker:** Hon. Members, it is now 10 o' clock and I would receive a proposal in relation to our time here.

**Mr. Nagamootoo:** Mr. Speaker, I, respectfully, move that this House continues to sit until the disposal of the Public Utilities Commission Bill and the motion alluded to moments ago by Your Honour, after which the adjournment would be proposed.

*Question put, and agreed to.*

*Standing Order suspended.*

#### **PUBLIC UTILITIES COMMISSION BILL 2016 – Bill No. 16/2016**

A BILL intituled:

“AN ACT to make provision for the establishment, functions and procedure of the Public Utilities Commission and for matters connected therewith.” [*Minister of Public Telecommunications*]

**Ms. Hughes:** Mr. Speaker, I rise to move that the Public Utilities Commission Bill 2016 Bill No. 16/2016 be now read a second time.

Mr Speaker and Hon. Members, this Bill repeals and replaces the Public Utilities Commission Act, (Cap. 57:01), as amended. This Bill is composed of the following: First, provisions of the Public Utilities Commission Act 1999, as amended by the Public Utilities Commission (Amendment) Act 2003 No.7/2003 and the Public Utilities Commission (Amendment) Act 2010 No.16/2010; and second, the provisions that are required to complement and harmonise with the Telecommunications Bill No. 15/2016.

This Bill achieves harmonisation with the Telecommunications Bill without disturbing the existing harmonisation with the Electricity Sector Reform Act and any other laws governing public utilities under the PUC’s jurisdiction.

Originally, the provisions that are required to complement the Telecommunications Bill were prepared as yet another amending Bill to the PUC Act. The Government, however, formed the opinion that it would be cumbersome for persons having to read the PUC Act, to have to refer to the Principle PUC Act of 1999, along with three amending Bills. As such, it was decided to prepare a consolidated PUC Bill that incorporates the PUC (Amendment) Acts of 2003 and 2010 and the new provisions relating to the telecommunications sector into the Principle PUC Act of 1999, thus creating the new consolidated PUC Bill that is now before this House for debate and passage into law.

The new provisions incorporated into the PUC Act of 1999, as amended, that relate to the telecommunications sector, covers the areas that I shall now indicate. These new provisions provide for telecommunications undertakings, that is, any entity subject to the new Telecommunications Act and Regulations being removed from the provisions of the PUC Act as a public utility and being regulated in accordance with the provisions set out in the specific sectors – the Telecommunications Act/ Regulations.



Under this Bill, the PUC will continue to function as the economic regulator of the telecommunications sector with responsibility for ensuring a competitive environment, seamless interconnection, access between and among telecommunications networks and price regulation, only where required to protect consumers and competition with the expectation of greater choice, better service quality and lower prices for consumers. The PUC will carry out these functions however, in a manner that is specific to the proper regulation of an open competitive telecommunication sector, something that the Act of 1999, which is more appropriate for the regulation of monopolies, did not provide for.

The Bill accomplishes this by several means. First, it creates a new definition for telecommunications undertakings, which would now be a different term from public utility, used for other utilities, over which the PUC exercises jurisdiction. The new term refers to any operator of telecommunications networks, provider of telecommunications services or other persons that are subject to the Telecommunications Bill. The Bill ensures that only those telecommunications undertakings that directly or indirectly provide service to or for the public would be regulated by the PUC.

Second, the Bill ensures that the PUC's activities, with regard to telecommunications, are governed by both the PUC Act and the Telecommunications Act.

Third, the Bill ensures that the PUC's functions, in areas of rate setting and regulating service quality, are governed by the Telecommunications Act rather than by the provisions of the PUC Act.

For us, the Bill provides that the PUC will be required to give effect to the terms of a licence issued to a telecommunications undertaking and any agreement between the Government and a telecommunications undertaking.

Further, the telecommunications sector related amendments include a clause that seeks to ensure that the rate of interest on customers' deposits, that a telecommunications operator or service provider is required to pay, is based on a formula that is fair and consistent with practice in the commercial sector. For this purpose, the interest rate is proposed to be changed from an annual compound rate of 8% to a rate that is equivalent to the average Treasury bill rate for the preceding 364 days. There is also a provision that ensures that the annual assessment to be imposed on telecommunication operators and service providers is based on the same formula that applies to the annual assessment imposed on electricity companies that

fall under the jurisdiction of the PUC, that is, a rate of 1% of the gross revenues derived from services or \$100 million, whichever is less.

I wish to say that the Bill is sound and reflects international best practices. The new telecommunications sector related provisions in the Bill, along with the Telecommunications Bill, will clearly set the environment for bringing Guyana into a new exciting frontier, one of full effected participation in the global information age and one that sets us ready to significantly close the digital divide within Guyana, and between Guyana and the developed world.

I wish, now, to give a bit more information on the general provisions of the new Bill as a whole.

Part I of the Bill establishes that the Act applies to public utilities engaged in providing service in relation to the production, generation, storage, transmission, sale and delivery of electricity. This part also states that the Act applies to telecommunications undertaking and other services, such as airline services, cargo handling, water supply services and sewage services.

Part II of the Bill establishes that the Commission shall be a body corporate, comprising five members, including a chairman who should be appointed by the Minister from among persons of integrity and high character and qualified with relevant expertise. The Commission may regulate its own procedure and make rules for that purpose. The chairman and other fulltime members shall not hold any position in Government and the Bill provides that there should be no conflict of interest.

Part III of the Bill provides for the employment of staff including a secretary and such other employees as might be necessary to carry out the business of the Commission. The Commission, after consultation with the Minister, may retain the services of professional persons. Provision is made for superannuation benefits in respect of persons employed by the Commission.

*10.12 p.m.*

Part IV of the Bill provides for the budget of the Commission. The Commission shall determine its own budget for submission to the Minister of Finance for inclusion in the annual budget presented to the National Assembly. The funds and resources of the

Commission include sums assessed by the Commission and paid over by public utilities and telecommunications undertakings; and sums provided to the Commission under any appropriation law.

Part V of the Bill sets out the specific functions of the Commission. It states that the Commission shall carry out the regulatory, investigatory and enforcement and other functions conferred on it by this Act or any other law. In so doing, the Commission shall be bound by and give effect to the provisions of the Electricity Sector Reform Act, the Telecommunications Act and any other law governing a public utility or a telecommunications undertaking, subject to the Commission's jurisdiction. The Commission shall also act in an advisory capacity to the Minister on public utilities and telecommunications undertakings and may conduct investigations in relation to any public utility or telecommunications undertaking.

Part VI addresses service and facilities and requires that every public utility shall maintain its property and equipment in such a condition as to enable it to provide services to the public that is safe, adequate and efficient. The Commission is empowered to conduct hearings on complaints regarding the quality of service provided by a public utility and may by order determine and prescribe the adequate and efficient service to be provided by the public utility.

Part VII of the Bill deals with the expansion and development of facilities and services of public utilities. A public utility must submit for approval of the Commission any programme for development or expansion specifying the period within which it will be implemented, the arrangement for financing and other information required to be submitted to the Commission.

The Commission may approve or reject the programme. Where the Commission finds that a public utility is not carrying out a development or expansion programme approved by the Commission, the Commission may order the public utility to pay to the Accountant General such penalty as the Commission deems fit.

Part VIII of the Bill deals with rates and provides that every rate made by any public utility shall be just and reasonable and in conformity with any written law. In determining the rate to be charged by a public utility for any service the Commission shall have regard to consumer interest, investor interest and to the rate of return obtained by other enterprises. Rates charged by a public utility shall not be unduly preferential or discriminatory. The Commission may

fix a uniform rate to be charged from all consumers throughout Guyana, even though the cost of providing service in any area is different from the cost of providing service in any other area of Guyana.

Part IX addresses other regulatory provisions, including the issue of securities. The Commission, may by rules, prescribe the form of all books, accounts and other records required to be kept by a public utility. Every public utility shall pay interest on cash deposits made with a public utility at a rate equivalent to the average Treasury Bill rate for the preceding 364 days or such other rate as may be specified in any other written law, a licence held by the public utility or an agreement between the Government and the public utility, or between the Government and an investor, in relation to privatisation or capitalisation of the public utility.

Part X of the Bill addresses the procedure to be followed in relation to a complaint made under this Act. A complaint shall state the particulars of the act or omission complained against, the public utility or the telecommunications undertaking against which the complaint is made, the identity of the entity that has suffered damages and the relief sought. The Commission shall make rules subject to the approval of the Minister governing the procedure for determining consumers' complaints. Upon the filing of a complaint, the Commission may require the public utility or telecommunications undertaking to satisfy the complaint or to answer the same in writing. The Commission may permit one or more persons to make a complaint against a public utility or telecommunications undertaking on behalf of a class of all consumers. The Commission shall serve on the public utility or telecommunications undertaking a notice stating the reasons for the initiation of proceedings. All hearings before the Commission shall be public.

Part XI of the Bill deals with funding of the Commission. The annual budget of the Commission, as approved by the National Assembly, shall be funded by an annual assessment by the Commission upon the public utilities and telecommunications undertaking under its jurisdiction.

The annual assessment shall be one *per cent* of the gross revenue derived from services or \$100 million, whichever is less, in relation to a public utility under section 4(1)(a) and in the case of a service provider and in all other cases, such amount as the Minister may by order prescribe.

Part XII of the Bill deals with enforcement orders. On the application of the Commission or any party before any proceedings before the Commission and the production of a certified copy of the order of the Commission, the High Court shall register and execute the order as if it were an order made by it.

Part XIII of the Bill deals with offences and penalties. Conviction of failure to obey an order of the Commission by a public utility carries a fine of not less than \$2 million dollars nor more than \$3 million dollars. Other offences include failure of a public utility or telecommunications undertaking to furnish information, making or furnishing false returns or information, obstruction or interference of officers, members *et cetera* of the Commission in discharging their duties. These offences carry severe penalties.

Part XIV of the Bill deals with review and appeal. An appeal shall lie to the Court of Appeal from any final decision or order of the Commission. The Commission may state a case in writing for the opinion of the Court of Appeal upon any question which is a question of law arising from proceedings.

Part XV of the Bill deals with miscellaneous matters. It states the duty of a public utility or telecommunications undertaking to cooperate with the Commission and to furnish information to the Commission. The Commission shall, on or before 31<sup>st</sup> March in each calendar year, make to the Minister a report of the preceding year showing all applications and complaints, summaries of the findings, and accounting of the funds received by the Commission and the report shall be laid before the National Assembly. The Commission has the power to make rules, including the procedures of the Commission, the rates that may be demanded, the form and manner of keeping books and the form of an application by a consumer. Under this part, the Public Utility Commission Act (Cap. 57:01) is repealed and there are detailed transitional provisions necessitated by the repeal of the Public Utilities Commission Act.

Mr. Speaker and Hon. Members, I urge the passing of this Bill that is designed to complement the Telecommunications Bill 2016, so that we have an effective and efficiently regulated competitive telecommunications sector in Guyana.

I thank you. *[Applause]*

**Mr. Ramson:** Thank you very much Mr. Speaker. May it please you; I rise to share my contribution on the subject of the Public Utilities Commission Bill 2016. I made some

references in my previous contribution on the Telecommunications (Amendment) Bill 2016, as it related to the role of the PUC and the role of the Telecommunications Agency.

Conceptually and ideologically, the PUC ought to function and function exclusively as a Complaints Commission that executes the decisions of that Complaints Commission in the way that it is structured correctly in this Bill, as a High Court would be doing.

However, it ought not to share roles of regulation with the Telecommunications Agency. It ought not to have the Telecommunications Agency set or do a price setting arrangement and have that power contained in the Telecommunications Act, and then the PUC on the other limb deals with changes to price. It should be one regulation and one regulator, and where regulation fails, the consumer ought to have recourse to this Commission which is out to function as a Complaints Commission for utilities.

Why is it important? Even if the public utilities is privately owned, even if we get to the stage where Government has no share in the ownership, whether it is by shares or control in public utilities, the public demands a high correspondent or expecting obligation on a Government that these services are provided in a consistent, reliable and affordable way. There are many times, in the provision of those services, one would find that imbroglios or complaints of some kind arise. It is the regulator that ought to be one's first port of call that deals with that effectively and efficiently.

If that fails, this is where, conceptually, I think that the Public Utilities Commission falls into play as a Complaints Commission with all the power and I think that the concept of having the power of a High Court is the correct one and that ought to continue. But having all the power of the High Court with orders to be executed, in the same way, once registered in the Supreme Court of Judicature, can be executed in the same way. That is not what happens as a result of this Bill or previously, and the opportunity ought to have been taken to not allow the cross – pollination of regulation of the sector.

*10.27 p.m.*

It is too confusing. There are some regulations found in the Telecommunication Bill and now Act and then some regulations found in this Bill. There is no need for that. The Government has to always be conscious that this information and the purpose it is serving is giving power to the citizens. The Government has to be conscious and be sensitive that people may not have access to all of the information readily. If one goes and asks people in the street, right

now, what they do when they are dealing with an issue of a public utility, by and large, the vast majority of people would not say that they would go to the Public Utilities Commission. That is a fact. If it is solely engaged for that purpose, that concept and that idea, that understanding and appreciation would become imbued and they would know that they can turn to the Public Utilities Commission as a solution.

At the end of the day, Government's delivery of public services and utilities matters a lot when it comes to how it is being viewed for governance. So, it would matter a lot when it comes to an election. You are politicians. All of us here are politicians. There is no need for there to be conflated or convoluted cross pollination of regulation in the two Bills. The regulations should have come in the Telecommunication (Amendment) Bill and the PUC ought to have functioned as a complaints commission with the power... if a decision has been made as a result of a complaint made, an order captured in that decision and enforced in the way through the High Court. That is how it should be done; at least that is my view. If this Bill is sent to a special select committee I would share that view with the Government.

Secondly, as it relates to the appeal process, the lawyers in this House would be very well *au fait* with the dilatory dealing with appeals that are filed in the Court of Appeal. I have been in practice for a number of years now and I have had a lot of exposure to the sector for a very long time. I would tell you that there are appeals that have been in the Court of Appeal for years and they have not been heard as yet. When someone is going to establish a route of appeal for a person who, most of the time, is complaining because he or she has no other means of receiving a remedy... most of the time they are impecunious and vulnerable and they need the arm of the State to not only exist but to represent them, to give them that voice, to act on their behalf.

If the large companies that have a lot of recourses, a lot of very well and educated personnel who could use the dilatory nature of the justice sector to delay a decision made by the Commission, then the Government is, in effect, leaving the complainant out in the cold. If one notices, even though there is a timeframe for when the appeal ought to be lodged, if one is going to be lodged, it prescribes a period of 14 days. However, it gives no correlating period of when the appeal ought to be heard. One cannot expect to present legislation for a Public Utilities Commission, which function is essentially consumer oriented, and only deal with the lodging of the appeal. One has got to deal with a timeframe for a decision or the hearing of the appeal. That is only fair.

Sometimes, once those public utilities are taken away, it will affect that person for a very long time if he or she does not get the decision. The company, on the other hand, if it stays the proceedings, could continue operating as normal for a number of years until that hearing is heard and until a decision is made. The Government is not looking at it holistically from the point of view of what the result should be.

A timeframe ought to have been included for the Chancellor to fix a hearing for the appeal. Since the Hon. Attorney General is here, I would even suggest that instead of the matter being directed to the Court of Appeal, which deals with very complex technical areas of law, it should be directed to the Full Court. The Full Court has the capacity to have more than two judges. It usually sits with two judges but it could be three or even up to five. The point is that this appeal could have been directed to the Full Court and be expeditiously handled.

Not long ago, the Full Court sat every Friday. The point that I am making is: if the appeal is lodged in 14 days, the Commission would be able to get hearing within a month or maybe less. So, probably it should be directed to the Full Court. If the Government is not going to include a provision for a timeframe of hearing for the appeal, then it is just defeating the whole purpose of a Public Utilities Commission, whose role, essentially, is supposed to be to protect the consumer. This is because there is an inequality of arms.

The third point I would like to make is in relation to the termination of membership, which includes the termination of the Chairman, who is to be appointed by the Minister. Before I am accused of not reading the Bill, allow me to read clause 9, sub clause (1). It states:

“The Minister may terminate the appointment of the chairman or any other member for any good and sufficient cause...”

And it goes on to (d):

“is guilty of conduct inconsistent with membership of the Commission;”

Those are very loaded words, “guilty of conduct inconsistent”. What process would be used to determine guilt? Second of all, what would be the burden of proof? Guilt is a word that has a criminal underpinning. There are a number of vagaries which can lead to these vicissitudes that inevitably would be unfair. If the Public Utilities Commission is seen as not carrying out the functions of the Minister, then members could expect that, at some stage of the other, they would have to submit their resignation or they would be terminated.



There is not the security of tenure that would give a Chairman or a member the confidence to be able to fight for that complainant. It is because they know that if the company complains to the Minister, which I do not have a problem with, and the Minister phones the Chairman and says, “you know that this thing has been happening; see what you can do for me...These kinds of grey areas and crossing lines are not unknown to happen. For a person who is committed to wanting to do that job in the best interest of the people who he has taken an oath, as he is bound to do, to protect, then he may feel reluctant or there may be a degree of trepidation as to how far he may want to go.

The fourth point that I want to make is in relation to clause 54 and clause 55, sub clause (5). Once again, before I am accused of not reading the Bill, let me read the Bill so that the Minister could know that we have read the Bill. Clause 54:

“The Commission may require the complainant, not being the Government, to give security for the costs of the hearing and investigation of the complaint.”

How could the Government, in good conscience, which was elected by the public and vowed to protect them, come in this honourable Assembly and lay over a Bill with the provision that the Commission may require a member of the public to lodge security for the investigation and the hearing? It is repugnant. It is unacceptable. Most times these persons are seeking assistance because they are impecunious. This never formed part of the previous Act and I would dare and challenge the Hon. Minister or any of her advisers to show us that that was included in the previous Act.

Do you think that it ends there, Mr. Speaker? It does not.

I just want us to be clear so that there is no response from somebody who would speak after me that the word “may” is discretionary. The word “may” has already been given judicial interpretation in the laws of Guyana by the Court of Appeal of this country. It bared on the Public Service Commission 2001, WIR, at page 63. It has been given a directory interpretation.

I am saying this to you because you may not be lawyers. The Hon. Minister’s husband is a lawyer and he can confirm what I am saying. The technical advisers may not have been lawyers or they may not have been practicing attorneys. Should this Bill be sent to a select committee or had we been consulted at any stage leading up to this process, we would have shared this information. But, again, the Government has shown its commitment not to work

with the People Progressive Party and we are hearing their message loud and clear. This idea of social cohesion in this country...there is no need to set up a Ministry of Social Cohesion. Start working with the People's Progressive Party. We are not looking for ministerial power. We are willing to bide our time.

*10.42 p.m.*

Clause 55, sub clause (5) states:

“Where the complainant or complainants have applied for permission to withdraw or settle a complaint referred to in subsection (1), the Commission shall cause a notice thereof to be published, at the cost of the complainant or complainants...”

The complainant has to pay for notices to be published wherever that may be and how much ever that may be. We just heard the Hon. Minister mention how much money this Commission is going to be funded with; X percentage \$100 million, whichever company and the Government now wants the complaint to pay for a notice. How could you feel good about yourselves?

Finally, as it relates to the funding of the Commission, I have a big problem with the funding coming from the utilities companies. This is a public complaints utilities commission. There is no need to take away money from the private companies. That money comes from taxation and it ought to go into the Consolidated Fund. The Ministry of Finance should fund this Commission without there being the requirement of the private companies to fund it. Why? It is very simple. There is a concept known as ‘regulatory capture’. Regulatory capture is likened to the old Proverb, *he who pays the piper, calls the tune*. In effect, the regulators end up serving the interest and economic interest especially of the public utilities or people who are contributing towards their budget. This method of funding has been a symptomatic method or position of this Government. One finds there being a very cosy relationship with contractors and business people all around the country. Ministers walk into the Guyana Pegasus with other contractors and spend and drink all night. It is too cosy of a relationship.

*Mr. Speaker hit the gavel.*

**Mr. Speaker:** Hon. Member, I must require you to stay within the merits of the Bill and leave the externals for outside of the House. I must require you to do that. Please proceed.

**Mr. Ramson:** The biggest concern that I have in relation to funding is that if the Public Utilities Commission is aware and knows that its financial existence and operation would be funded by the same people that it is required to regulate, investigate and make decisions on, there would be an inherited conflict of interest and a reluctance to be fair and equitable. In these commissions, that is of most significance. If the argument is going to be made that an arrangement of a similar nature transpired before...Let me give a little background so that we could understand how things would never stay the same. In the Telecommunications (Amendment) Bill, which we just debated, the reason why companies were given...A very long time ago, in 1934, American Telephone and Telegraph (AT&T) had a monopoly for telecommunications services for the entire America - wireless service, Local Area Network (LAN), *et cetera*. Conceptually, it was the belief, then, that a single company having that monopoly would invest because they knew that they could secure the ability to reap the profits as a result. Unfortunately, by the end of the 1970s or so that concept had changed. In 1996, there was a new Telecommunications Act. If it is the case that in the Public Utilities Commission Act, which is about to be repealed, the arrangement existed for funding, either some or all, to come from a percentage of the utilities companies, there is no reason to maintain the existence of that construct. I am advocating and advancing the reason why it ought not to exist. It is a logical and more than likely possible consequence.

Let us say that it does not happen all the time, but one time is too much; one single time is too much. There is no denial that that conflict is an inherent conflict and would directly or indirectly affect the proper execution of the functioning and the judgement of the personnel that would occupy those positions.

This Public Utilities Commission is not about politics. Our job here is to serve the people of this nation, more importantly, the most vulnerable people of this nation. The ones that need our help the most are the ones that gets our unbiased, impartial and concerted effort to work together to move that cause forward. If these changes that I have offered are not accepted or at least considered at the stage of select committee, we would not be doing and executing our function effectively and we would be betraying the very confidence that was reposed in us by the voters of this country and the citizen of Guyana. I would warn you that sometimes when you betray people, trust sometimes lost could never be regained. Thank you. *[Applause]*

**Minister of Business [Mr. Gaskin]:** I rise to give my support to the Public Utilities Commission Bill 2016. Before I do so, I wish to assure this House that our Government would never betray the people of this country.

It is important to note that this Bill, Bill No. 16/2016, does not differ vastly from the current Public Utilities Commission Act, which is the Act that it seeks to repeal and replace. In fact, the arrangement of the sections is exactly the same, except for the final two sections - 89 and 90 - which, respectively, repeal the previous Act and make provisions for the transition to a new Act, which I hope would be the outcome of our deliberations today. I should also point out that, in large part, this new legislation is required to give effect to the provisions of the Telecommunications (Amendment) Bill, which was just passed in this House today. Therefore, we are not in any way attempting to establish that there are any grave deficiencies in the current Public Utilities Commission Act, but rather to create an Act which has consistence with the recently debated Telecommunications (Amendment) Bill in terms of how that sector is regulated.

I may not be a lawyer, but I wish to comment on the previous speaker's presentation and I wish to read subsection (5) of section 55 of the current Public Utilities Commission Act. It reads as follows:

“Where the complainant or complainants have applied for permission to withdraw or settle a complaint referred to in subsection (1), the Commission shall cause a notice thereof to be published, at the cost of the complainant or complainants, in a prominent place at the headquarters of the Commission and in a newspapers having circulation in Guyana, stating the date, time and place of the hearing of the application...”

I am reading this because this is the very subsection quoted by the Hon. Member Ramson, a few minutes ago, in which he ranted and raved about this being a new...

*Mr. Speaker hit the gavel.*

**Mr. Speaker:** Hon. Minister, I must ask you to keep within the bounds of priority in the House.

**Mr. Gaskin:** Certainly, Mr. Speaker. This is the same clause in the new Bill, which the Hon. Member read and vehemently objected to, specifically the provision for the complainant to bear the cost of publishing the notice of the complaint. I merely wish to point out to this

House that that provision is not new - it is in the current Act - and I am not the lawyer in this House.

There are certain critical sectors in every country that need to be regulated outside of the normal laws and regulations that govern the carrying on of normal business activities. These are sectors that people, businesses and Governments depend on for the provision of vital services - services which cannot be left to the devices of the suppliers and the consumers, services which cannot be allowed to operate on a supply and demand basis, services which have to be as widely accessible as possible and services which we cannot afford to do without. Services such as electricity, telecommunications, water and sewerage, as well as transportation services that move passengers and cargo by air, water or over land are examples of these vital services. These are the services which this particular Bill is designed to regulate.

*10.57 p.m.*

What really distinguishes this Bill from the current Act, which is also designed to regulate these services, is the change in the meaning of the term “public utility” to exclude the telecommunications sector and to treat it separately under the term “telecommunications undertaking”.

This is an extremely important Bill, but as to how it differs from the current Act, it is really not that complicated. The telecommunications sector will henceforth be regulated by two different agencies under two different Acts. This is necessary because of the technical complexity and the rapid development of that sector. The Telecommunications Agency, soon to be established under the Telecommunications Act, will be the technical regulator, while the Public Utilities Commission will continue to regulate the more general aspects of the industry.

Therefore, it is necessary to remove from the jurisdiction of the Public Utilities Commission certain responsibilities which it currently has in relation to the telecommunications sector so that these areas can be regulated by the Telecommunications Agency. Since, for the purposes of this new Bill, the term “public utility” no longer includes the telecommunications sector, that sector will, by default, no longer be subject to the provisions of the new Public Utilities Commission Act unless specifically referred to using the term “telecommunications undertaking”.

For instance, Part VI of the Public Utilities Commission Bill - Service and Facilities - does not apply to the telecommunications sector because it only refers to public utilities and makes no specific references to telecommunications undertakings. What that means is that the duty to provide adequate service and the provision for the Commission to prescribe by order what service is to be provided and whether or not the service should be extended does not apply to the telecommunications sector.

Similarly, and by the same mechanism, the provisions of PART VII of the Bill – Development and Expansion of Facilities and Services - does not apply to the telecommunications industry and, therefore, more specifically, there is no requirement for telecommunications operators or service providers to submit their development and expansion plans for approval to the Public Utilities Commission and for these companies to satisfy the Commission that they are carrying out these plans in accordance with what has been approved. Just for clarity, the fact that these provisions will no longer apply to the telecommunications sector does not mean that the sector is not subject to this kind of control. The Telecommunications (Amendment) Bill, just debated, has various sections that deal with areas such as interconnection and access, universal access and universal services, monitoring of the frequency authorisations and the use of the spectrum and the implementation of technical standards as well as reporting requirements, all of which monitor the service provided by the telecommunications sector. It is because these requirements are specific to industry that they are therefore removed from the responsibilities of the Commission and passed to the Telecommunications Agency to monitor and implement.

On the other hand, there are a number of areas in which the Commission has maintained responsibility for the telecommunications sector. For instance, Part XI of the Bill - Funding of the Commission and Costs – where the company is operating under the jurisdiction of the Commission, which will be required to fund the annual budget of the Commission will include telecommunications undertakings. Likewise under Part V, the Commission does have the power to investigate the operations and standards of services of any telecommunications undertaking.

Also, under Part X, telecommunications undertakings are subject to the same procedures for dealing with complaints made against them to the Public Utilities Commission; under Part XIII, they are subject to the same fines and penalties as Public Utilities.

The Hon. Member Mr. Hamilton repeatedly asked about the recourse the people have if the service provided is not adequate. He was referring the previous Bill which was debated and was asking what recourse the people would have when their telecommunications service is not adequately provided. The recourse is located in the Public Utilities Commissions Act. Therefore, under Part X, the procedures for dealing with complaints provide the recourse that the Hon. Member was seeking.

I must compliment the persons involved in putting together and drafting this Bill, not only for the expertise in handling the complex task of dividing responsibilities between the Telecommunications Agency and the Public Utilities Commission, but also for using the opportunity to strengthen the Public Utilities Commissions Act through some of the new clauses that have been introduced in this Bill. One of those clauses is to be found in Part II of the Bill in clause 5, sub clause (2), which allows for consultations with a number of organisations, including the Opposition, before the appointment of the Chairman and the members of the Public Utilities Commission is made.

Also Part X of the Bill has an addition to the Bill which is not in the previous Act:

“(a) The Commission shall resolve every complaint brought by a consumer, or by the Minister or the Commission itself, regarding any bill issued by a public utility or a telecommunications undertaking to the consumer, by the issuance of an order, binding upon the consumer and the public utility or telecommunications undertaking, within one hundred and twenty days following the initiation of the complaint with or by the Commission, and every order issued shall be binding upon the consumer and the public utility or telecommunications undertaking, as the case may be”.

It goes on to deal with the Commission’s obligation to review evidence, *et cetera*, but it does adequately provide recourse for complaints by consumers, by the Minister or by another public utility or telecommunications undertaking to the Commission.

Part XIII - Offences and Penalties: the penalties in the new Bill have been changed. They have increased, in many cases, from \$500,000 to between \$2 million and \$3 million. Therefore, the new Bill does, in my opinion, update the deficiencies of the previous Act, especially as regard to providing for adequate penalties to be issued where violations of the Act occur.

Before I conclude, I wish to emphasise the importance of the Public Utilities Commission Bill to the wellbeing of our economy. When it comes to business, those critical services, which I highlighted earlier, are even more important and can make a difference in the competitiveness of our businesses, what we produce and the services which we offer.

One of the indicators in which Guyana scored very badly in the 2016 *Doing Business* Report is that of access to electricity. The proper implementation of the Act by an autonomous Commission, especially Part VI and VII of this Bill, will see a much better, wider, more reliable and affordable provision of electricity due to the specific provisions related to adequate service and the extension of service and the development and expansion programmes of utilities companies.

Part IV, clause 20 of the Bill states:

- (1) “The Commission shall determine its own annual budget for submission to the Minister of Finance for inclusion in the annual budget presented to the National Assembly.
- (2) The Commission shall have the discretion and authority to disburse funds obtained in accordance with this Act, subject to the provisions of any other written law.”

We all recognise the need for an independent Public Utilities Commission to ensure the highest quality of utility services at fair and reasonable rates. Our people need this and our businesses need this and our Government needs this, but especially our businesses do need this in order to stay competitive and our country will need this if we want to improve our ranking in the *Doing Business* index.

Not only must we pass this Bill, but we must also ensure its proper implementation. I am confident that a Commission, established under the provisions of this new Bill, will implement it in the way in which it was designed to be implemented. I know that all stakeholders will ultimately benefit from the promotion of fairness, transparency and equity in the provision of utility services throughout the country. This Bill is not contentious and I, therefore, commend its passage in this honourable House. I thank you very much. *[Applause]*

*11.12 p.m.*



**Ms. Burton-Persaud:** The Public Utilities Commission Bill No. 16 of 2016 is one that is very integral to our country. This Bill comes at a time when Guyana is seeking to attain technological advancement and to be in sync with the changing trends globally.

This piece of legislation will be the tool to guide the Commission in its work to monitor the various public utilities undertakings and to provide the consumer with the mechanism for representation.

A Bill such as this is not only important to the consumers, but it is more so needed because it comes at a time when the passing of the Telecommunications (Amendment) Bill – Bill No. 15 of 2016 which was just passed in this House... The competitive atmosphere that will prevail in this sector will be tremendous and will call for greater oversight and scrutiny.

To the consumer, the work of the Commission as it relates to its intervention and representation must be efficient and effective if there is to be positive outcomes to matters laid before the Commission.

One needs not to wonder what meaningful role the PUC will be expected to play in our economy. These functions are clearly defined in Part V – clause 21 (1) which states:

“The Commission shall perform the regulatory, investigatory, enforcement and other functions conferred on it by this Act and any other applicable written law.”

These are very important functions that are critical to the successful operation of this Commission in ensuring that public utilities providers operate in the specified manner and that they conform to the regulations therein.

Under this Act, the Commission is given unlimited scope to investigate these companies and providers so as to ensure that they provide the consumer with proper and safe service. It also provides the Commission with the authority to enforce these regulations when not in place.

Armed with this Act and the Telecommunications (Amendment) Act, the PUC will be in a position to effectively and efficiently carry out its mandate unhindered. Therefore, expectations will be high in the hearts of the consumers who are continuously plagued with poor and inadequate services and, in some instances, unsafe services that are being provided by the service providers.

For too long consumers are left to the mercies of service providers such as those in the transportation sector who need to come to realise that it is mandatory for them to provide proper and safe modes of service. The Commission must pay attention to the way in which transportation service providers conduct business on a daily basis. The Commission must make every effort to work in collaboration with the various agencies to ensure that there is adherence to the laws under which these providers operate.

In like manner, the Public Utilities Commission, as a regulatory body, must also ensure that the language and graphics used in media advertisements are of a high quality as it relates to language contents, both written and oral. One is left in a state of bewilderment on many occasions when viewing advertisements or some programmes produced and aired locally by our television stations. These responsibilities are spelt out in Part VI, clause 25 (1), under the marginal note, “Duty to provide adequate service”, which states:

“...every public utility shall maintain its property and equipment in such condition as to enable it to provide, and shall make every reasonable effort to provide, service to the public in all respects, safe, adequate, efficient, reasonable and non-discriminatory and shall make all such repairs, changes, alterations, substitutions, extensions and improvements in or to such service and shall be necessary or proper for the accommodation and convenience of the public or as shall be necessary to incorporate, from time to time, advances in technology.”

It is further enforced in Part VII, clause 31 (a) and (b) under the marginal note, “Power to prescribe quality and standard of service and conditions relating to service to be contained in agreement.” It is hoped that, bearing this clause in mind, the Public Utilities Commission will leave no stone unturned in the course of its investigations when a complaint is brought before it by an aggrieved consumer.

The Commission is bound by clause 26 (1) under the marginal note, “Proper service established on complaint.” It states:

“Where the Commission, after a hearing upon its own motion or upon a complaint, finds that the service provided by a public utility is not in accordance with section 25, the Commission shall by Order determine and prescribe the adequate or reasonable service to be provided by the public utility, including all such repairs, changes, alterations, extensions, substitutions or improvements and facilities as shall be

reasonably necessary and proper for the accommodation and convenience of the public; and, subject to any other written law, may also direct the public utility to pay any consumer compensations for loss or damage suffered by the consumer on account of the failure of the public utility to comply with Section 25.”

These are very comforting and promising words to the consumer. It is hoped that it will not remain just on paper, but that we will see the manifestation of this clause in its true and actual sense.

Far too many consumers were and are left to deal with repairs and replacement of equipment, household appliances, even property and, in some cases, injury or death to persons as a result of damages sustained due to poor and substandard service provided, and, in other cases, being left without that particular service for undue lengthy periods which cause great inconvenience to persons and businesses.

Part X, clause 52 (4) (a) to (c), under marginal note, “Complaint”, addresses the course of action to be pursued by the Commission when a complaint is made. Paragraph (a) dictates the length of time in which the matter shall be resolved, which is 120 days, while (b) states:

“Every order issued under paragraph (a) shall be based upon the Commission’s review of the evidence as may have been submitted to it by the consumer and the public utility or telecommunications undertaking, and any evidence developed by the Commission itself, within a one hundred and twenty day period, and shall require the consumer to pay any amount owing to the public utility or telecommunications undertaking, or the public utility or telecommunications undertaking to credit any amounts due to the consumer to his account, within a reasonable time, but in any event not more than ninety days from the date of the order.”

When one examines the manner in which the Public Utilities Commission today discharges its duties when addressing the complaints made by the consumer, one is left with no choice than to believe that the Commission operates more in the favour of the service providers than in the interests of the consumers. Many matters brought before the Commission by consumers to be resolved are left to wait the specified days; hence, the consumer is left with no alternative than to bow in submission to the service provider.

This Bill speaks about the power of the Public Utilities Commission to investigate matters but, in many instances, the level of investigation is minute or non-existent. Sometimes one

needs to ponder if the Commission does have the ability and provision to investigate, and, if so, if it really has any interest in making sure that the issue is dealt with in a professional and amicable manner.

There is very little consumer satisfaction that is derived from this entity at present. Instead of proactive and efficient service, we witness a reluctant and laid-back approach coming from the Public Utilities Commission on such matters of urgency. Such attitudes are unacceptable and unprofessional in every sense.

Clause 54, under the marginal note, “Security”, states:

“The Commission may require the complainant, not being the Government, to give security for the costs of the hearing and investigation of the complaint.”

Further, clause 55, which has been pronounced upon by various speakers before me, deals with the fact that the consumers will be left to bear the expenses when complaints are made and laid before the Commission - venue, date, time and particulars of the hearing - which the Commission will publish in newspapers across Guyana; it is at the expense of the complainant or complainants, as the case may be. Subclause 5 further states that any withdrawal or settlement on the matter by the complainant will be published by the Commission at the expense of the complainant. It is known that in the case where money is owed by the consumer, that will also have to be paid. It is a known fact that most of the complaints that are brought before the Public Utilities Commission for its attention is made by persons who lack the financial ability to endure any cost. It can only then be taken that this clause is the main ingredient to prevent the ordinary man from pursuing any course of action against service providers.

This Bill, in its true sense, gives the consumer with one hand and takes away with the other. If this Bill is truly to offer protection to the consumer, then that protection must be uncontaminated or it will be useless and ineffective.

The Public Utilities Commission must be prepared to offer quality and professional service if a liberalised and modernised sector is to be sustained and maintained. Every effort must be made to ensure that, guided by this Bill, consumers must be assured and be given value for money.

This Bill before us sets out to enhance the quality of service being provided by public utilities, telecommunications undertakings and service providers while, at the same time, providing the framework mechanism to have issues addressed and resolved in a more humane and professional manner.

The Public Utilities Commission must, at this time, revisit its position to ensure that it is in sync with the global changes in relation to customer service, customer care and consumer protection and representation. The Public Utilities Commission must live up to the expectations of those whom it is mandated by this Bill to serve and must do so impartially. Complaints must be investigated and reviewed with directness and urgency and answers, recommendations and reprimand must be given in a timely manner.

The Public Utilities Commission must be a proactive entity in our society. However, in its present form, none of this will be realised and, once again, the other citizens of Guyana will receive the shorter end of the stick. This will, in no way, envision the good life that should be beckoning, much more to afford them the good life that they have been promised.

Mr. Speaker, I hereby recommend this Public Utilities Commission Bill - Bill No. 16 of 2016 to be sent to a parliamentary select committee. [*Applause*]

*11.27 p.m.*

**Mr. Speaker:** I thank the Hon. Member for her statement. The next speaker is the Hon. Basil Williams. You have the floor, Sir.

**Mr. Williams:** I am afraid, Mr. Speaker, I am not on to speak yet.

**Mr. Speaker:** You yield your place in this matter; is that it?

**Mr. Williams:** Yes, please.

**Mr. Speaker:** Thank you. The next speaker is the Hon. Irfaan Ali.

**Mr. Ali:** Mr. Speaker, I would follow the footsteps of the Attorney General.

**Mr. Speaker:** What would that mean, Hon. Member?

**Mr. Ali:** It means to yield my position at this time.

**Mr. Speaker:** I thank the Hon. Irfaan Ali. The next speaker is the Hon. Catherine Hughes. You have the floor.

**Ms. Hughes (replying):** Thank you, Mr. Speaker. There are just a few comments that I would like to make. I would like to remind the Members of this honourable House that this Public Utilities Commission Bill seeks only really to harmonise and to complement the Telecommunications (Amendment) Bill that we just passed. It consolidates the previous Act and the three amending Bills and really has not that much that it is new. As we heard from my Colleague and in my presentation, it took telecommunications out of the definition and created a new definition.

I know that the Hon. Member on the other side, Mr. Ramson, mentioned and stated, on a few occasions, that he read the Bill. And so, we definitely know that he can read, and he mentioned that he has been in practice for many years but, again, I think he highlighted some areas of confusion in understanding that I really would like to highlight.

The manner of regulating telecommunications *via* the telecommunications agency under the Telecommunications Act and the Public Utilities Commission Act, as we have heard, mirrors what pertains in the electricity sector Regulations. The PUC is structured as a quasi-judicial autonomous body to deal with matters that require deliberation of issues between parties and the hearings of parties. And, of course, as we know from the Bill, it includes issues such as pricing, interconnection, consumer issues and competition issues. The telecommunications agency does not conduct hearings but, in fact, functions as a technical regulator. It regulates to the same methodology that applies to the electricity sector and that system, as we know, was established in Guyana since 1999.

The provisions of the Bill were adopted and endorsed in the Select Committee of the Tenth Parliament and this Government really has honoured the conclusions reached by the Committee and has reflected the consensus of the parties on these issues. With regard to clause 54, this is, in fact, the same form and language as reflected in the 1999 Act, as does clause 55 (5).

Funding for the PUC has not changed and the intention of not changing the section that did not need to be changed is to ensure that no accusations could be made of Government manipulating the decisions of the Select Committee of the Tenth Parliament in any way.

I believe that the time frame for hearing of appeals should be provided for, of course, in the rules of the court and not in the PUC Act. Of course, the learned Attorney General might, at a future date, be able to comment on this.

Mr. Speaker, in short, I do not think that there is much else to be said. Therefore, I ask the House to consider the passing of this Bill and I recommend it to the Committee.

Thank you.

*Question put and carried.*

*Bill read a second time.*

*Assembly in Committee.*

**Mr. Chairman:** Hon. Members, with your assistance, we will treat consideration of this Public Utilities Commission Bill 2016, I propose, in the same manner as we did the Telecommunications (Amendment) Bill. There are 15 Parts to the Bill and I would put to you each Part separately, naming the clauses as I do so.

**PART I - Clauses 1 – 4**

*Clauses 1 to 4 agreed to and ordered to stand part of the Bill.*

**PART II – Clauses 5 – 15**

*Clauses 5 to 15 agreed to and ordered to stand part of the Bill.*

**PART III – Clauses 16 – 19**

*Clauses 16 to 19 agreed to and ordered to stand part of the Bill.*

**PART IV – Clause 20**

*Clause 20 agreed to and ordered to stand part of the Bill.*

**PART V – Clauses 21 – 24**

*Clauses 21 to 24 agreed to and ordered to stand part of the Bill.*

**PART VI – Clauses 25 – 27**

*Clauses 25 to 27 agreed to and ordered to stand part of the Bill.*

**PART VII – Clauses 28 – 31**

*Clauses 28 to 31 agreed to and ordered to stand part of the Bill.*

**PART VIII (a) – Clauses 32 – 37**

*Clauses 32 to 37 agreed to and ordered to stand part of the Bill.*

**PART VIII (b) – Clauses 38 – 46**

*Clauses 38 to 46 agreed to and ordered to stand part of the Bill.*

**PART IX – Clauses 47 –51**

*Clauses 47 to 51 agreed to and ordered to stand part of the Bill.*

**PART X – Clauses 52 – 63**

*Clauses 52 to 63 agreed to and ordered to stand part of the Bill.*

**PART XI – Clauses 64 and 65**

*Clauses 64 and 65 agreed to and ordered to stand part of the Bill.*

**PART XII – Clauses 66 – 69**

*Clauses 66 to 69 agreed to and ordered to stand part of the Bill.*

**PART XIII – Clauses 70 –76**

*Clauses 70 to 76 agreed to and ordered to stand part of the Bill.*

*11.42 p.m.*

**PART XIV - Clauses 77 - 81**

*Clauses 77 to 81 agreed to and ordered to stand part of the Bill.*

**PART XV - Clauses 82 - 90**

*Clauses 82 to 90 agreed to and ordered to stand part of the Bill.*

*Assembly Resumed.*



**Ms. Hughes:** Mr. Speaker, I rise to report that the Public Utilities Commission Bill 2016, Bill No. 16 of 2016, was considered in Committee, clause by clause, and passed without amendments. I move that the Bill be now read for the third time and passed as printed.

*Bill reported without amendments.*

**Mr. Speaker:** The question is that the Bill be now read the third time and passed as printed.

**Ms. Teixeira:** Mr. Speaker, under Standing Order 58, we wish to move that the Bill be sent to a parliamentary special select committee, please.

**Ms. Manickchand:** May it please you, Sir. I rise to second that motion.

*Question put.*

*Motion negatived.*

*Bill read the third time and passed as printed.*

## **COMMITTEES BUSINESS**

### **MOTIONS**

#### **ADOPTION OF THE SECOND REPORT OF THE STANDING COMMITTEE ON APPOINTMENTS TO ADDRESS MATTERS RELATING TO THE APPOINTMENT OF THE DIRECTOR AND DEPUTY DIRECTOR OF THE FINANCIAL INTELLIGENCE UNIT**

WHEREAS in keeping with the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act 2015, Act No. 1 of 2015, section 5, as follows:

“5. The Principal Act is amended by the substitution for section 8 of the following section as section 8 -

8(1) “The National Assembly shall by -

- a) a simple majority; and
- b) on the recommendation of the Parliamentary Committee on Appointments, appoint the Director and Deputy Director of the Financial Intelligence Unit.”

AND WHEREAS the Committee advertised the two positions and subsequently shortlisted eight (8) applicants for the position of Director and interviewed each in person and or via Skype;

AND WHEREAS the Committee shortlisted nine (9) applicants and interviewed each in person or by Skype for the position of Deputy Director;

AND WHEREAS the Committee on Appointments after deliberations reached consensus and recommended Mr. Matthew Edward Hugh Langevine and Mr. Abiose Thomas as the suitable candidates for the positions of Director and Deputy Director, respectively in accordance with the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act 2015;

AND WHEREAS the Committee on Appointments after deliberations, by majority, recommended Mr. Matthew Edward Hugh Langevine and Mr. Abiose Thomas as the Director and Deputy Director of the Financial Intelligence Unit (FIU) in accordance with the Anti-Money Laundering & Countering the Financing of Terrorism (Amendment) Act 2015, Act No. 1 of 2015.

“BE IT RESOLVED:

That this National Assembly adopts the Second Report of the Standing Committee on Appointments to address matters relating to the appointment of the Director and Deputy Director of the Financial Intelligence Unit;

BE IT FURTHER RESOLVED:

That this National Assembly signifies to the Clerk of the National Assembly that Mr. Matthew Hugh Edward Langevine and Mr. Abiose Thomas be appointed in accordance with Section 5, of the Anti-Money Laundering and Countering the Financing of Terrorism Act No. 1 of 2015.” *[Minister of Public Health]*

**Minister of Public Health [Dr. Norton]:** Mr. Speaker, earlier, I presented to the Assembly the Second Report of the Committee on Appointments. I would like to submit the Report now and to let the Hon. House know that this Committee had a total of 14 meetings. To this Committee there was a designated Clerk who worked with us for all 14 of these meetings up to the last. I want to take this opportunity to let this honourable House know that it was only

late last week when the Clerk worked with us on our last sitting and, yesterday, she delivered a healthy baby boy. [*Applause*]

This Committee wants to fulfil its mandate to appoint the Director, Deputy Director, Attorney-at-Law and Accountant within the Financial Intelligence Unit through a process that was acceptable to all. The Committee acknowledged the applications and the spreadsheet with the summary of the applications received was as follows: for the position of Director, there were 17 candidates; Deputy Director, 17 candidates; Accountant, 29 candidates; and Attorney-at-Law, two candidates.

The Committee undertook to enquire from applicants, *via* email, whether they deemed themselves politically exposed persons. This, I must say to this honourable House, was not as easy as it might have seemed. This was as defined in the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act of 2015. The Members of the Committee shortlisted eight persons who were selected to be interviewed for the position of Director of the FIU. The interview format included both in person as well as *via* Skype for those who were residing overseas, with each applicant having one hour per interview. The Committee agreed, unanimously, on the top two candidates and agreed that further due diligence be conducted on the selected candidates.

At its 12<sup>th</sup> Meeting, the Members received the response of the Commissioner of Police and decided that the top ranked candidate was no longer eligible for consideration for appointment as the Director of the FIU. The Committee deliberated and, by consensus, decided that Mr. Matthew Edward Hugh Langevine would be the most suitable candidate for the position of Director of the FIU.

For the position of Deputy Director, the Committee shortlisted nine applicants and, after deliberations, the Members selected the top three candidates for the further due diligence process. There were differences of views as the Opposition Members felt that the current Legal Advisor to the FIU, Ms. Alicia Williams, should be given the position whilst the Government Members were supportive of Mr. Abiose Thomas and were of the view that his experience would merit him being given the position. The matter was eventually put to the vote and the nomination of Mr. Abiose Thomas received five votes while the nomination of Ms. Alicia Williams received four votes. As a result, Mr. Abiose Thomas was recommended for the position of Deputy Director of the FIU.

Pending the Report being tabled and debated in the National Assembly, Mr. Langevine and Mr. Thomas would have been advised that they had been selected for the position of Director and Deputy Director, respectively, and that the Committee's decision was conditional on the approval of the National Assembly; they would each be advised of the salary, allowances and benefits of the identified position; and they would be asked to indicate if they were interested in accepting the offer.

Subsequent to the Committee's decision, it was agreed that the Commissioner of Police should be written to, seeking any background information and also their current places of employment. The Members reviewed and accepted the responses submitted by the Commissioner of Police as well as from the current employers of the proposed Director and Deputy Director, respectively. It should be noted that both candidates accepted the positions and conditions proposed.

Consequent to the due diligence report, the Committee submits for the consideration of the National Assembly the proposed names of the Director and the Deputy Director within the FIU.

The Committee commenced the process for the selection of Accountant and Attorney-at-Law, which the Committee agreed to bring to the attention of the National Assembly in the near future.

Thereafter, the Committee examined and unanimously adopted the Report and the motion. The Report is hereby accordingly submitted. I ask that this Report be adopted by the House.

Thank you very much. *[Applause]*

**Bishop Edghill:** Mr. Speaker, like my Colleague, Madam Gail Teixeira, did enquire a little earlier, I am a little lost since the Hon. Chairman of the Committee on Appointments and Minister spoke to the Report and did not speak to the motion. What should I be speaking to at this stage? Should I speak just to the Report or the Report and the motion? I will like to be guided.

**Mr. Speaker:** Hon. Member, it would be appropriate if you were to present to the House the motion as regard the appointment of the Director and the Deputy Director of the FIU. That will allow Members to speak to the whole issue rather than only to the Report in general. Thank you.

Hon. Minister, you have the floor.

**Dr. Norton:** Thank you very much, Mr. Speaker.

“WHEREAS in keeping with the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act 2015, Act No. 1 of 2015, section 5, as follows:

The Principal Act is amended by the substitution for section 8 of the following sections as section 8 -

8(1) “The National Assembly shall by -

a) a simple majority; and

*11.57 p.m.*

(b) on the recommendation of the Parliamentary Committee on Appointments, appoints the Director and Deputy Director of the Financial Intelligence Unit”.

AND WHEREAS the Committee advertised the two positions and subsequently shortlisted eight (8) applicants for the position of Director and interviewed each in person and or via Skype;

AND WHEREAS the Committee shortlisted nine (9) applicants and interviewed each in person or by Skype for the position of Deputy Director;

AND WHEREAS the Committee on Appointments after deliberations reached consensus and recommended Mr. Matthew Edward Hugh Langevine and Mr. Abiose Thomas as the suitable candidates for the positions of Director and Deputy Director, respectively in accordance with the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act 2015;

AND WHEREAS the Committee on Appointments after deliberations, by majority, recommended Mr. Matthew Edward Hugh Langevine and Mr. Abiose Thomas as the Director and Deputy Director of the Financial Intelligence Unit (FIU) in accordance with the Anti- Money Laundering & Countering the Financing of Terrorism (Amendment) Act 2015, Act No. 1 of 2015.

**BE IT RESOLVED:**

That this National Assembly adopts the Second Report of the Standing Committee on Appointments to address matters relating to the appointment of the Director and Deputy Director of the Financial Intelligence Unit;

BE IT FURTHER RESOLVED:

That this National Assembly signifies to the Clerk of the National Assembly that Mr. Matthew Hugh Edward Langevine and Mr. Abiose Thomas be appointed in accordance section 5, of the Anti-Money Laundering and Countering the Financing of Terrorism Act No. 1 of 2015, Section 5.”

Thank you very much Speaker.

**Bishop Edghill:** Mr. Speaker, you would appreciate that, earlier in the evening, when we had sought clarification of how to proceed, it would appear that we were trying to find our way in uncharted waters. But, I believe that, the fact that we are here now, speaking to this report and this motion that came from the Committee on Appointments, as it relate to the Director and Deputy Director of the Financial Intelligence (AML/CFT) Unit (FIU) in the Anti-Money Laundering and Countering the Financing of Terrorism Authority, speaks to a new arrangement as it relates to our functioning as a Parliament, since this would be the first time, in my own experience, that a Committee on Appointments was directly involved in interviewing candidates for an appointment of such a nature. The recommendations that are being made tonight, by way of this report, is not a case where we would have received nominations from entities and agencies. This would have allowed, based on the amendments that would have come, the Committee being directly involved in a process of advertising, shortlisting, interviewing, deliberating and now recommending. There are a number of comments that I want to make as it relates to both the report and the motion.

First, I would want to speak to the report as was tabled by the Hon. Minister of Public Health. I want to indicate that at No. 43 of this report, the Opposition Members cannot subscribe to this statement since it is not factual.

“...the Committee examined and unanimously adopted the Report and Motion.”

The Committee never unanimously adopted the report and the motion. The Committee unanimously adopted the report and that should be corrected. If in the quagmire that we had found ourselves in earlier, this was the intention, then, I think, it needs to be exposed.

As it relates to finding the Director and Deputy Director of the Financial Intelligence Unit, as the motion speaks to, we would not have been here tonight had it not been for the insistence of the Members of the Opposition, who are Members of the Committee on Appointments, to prioritise the process of finding the Director and Deputy Director and other officers, as stipulated in the Act, for the Financial Intelligence Unit. At the second meeting of the Committee on Appointments, while we were still yet considering the rights commissions, it was the Hon. Ms. Gail Teixeira who had enquired whether there was a Director of the Financial Intelligence Unit in place. In January of this year we were told that there was a Director of the Financial Intelligence Unit in place, even though we later learnt that, as of 31<sup>st</sup> December, 2015, the contract of the Director came to an end. As a result of those interventions, priority was given towards moving the process forward for the finding of the Director and Deputy Director.

This needs to be stated on the floor of the House because this is contrary to what was reported in the media, particularly, from a Government Information Agency (GINA) report. I am sorry that I do not have an actual copy of the report with me because we did not know that this matter would have been debated tonight, if not, we would have had a copy with us tonight. We did not have notice of this matter but it was a matter that was raised where it was said that the Opposition was stalling the process of the appointment of the Director of the FIU... [Ms. Ally: Lie.] ...and that must be debunked because it is not true. It was never the case. There was full cooperation and full participation... [Ms. Ally: Lies and more lies.] ...from the Members of the Opposition in driving this process in getting to the place where we are tonight.

The second thing that needs to be indicated...

**Ms. Teixeira:** On a Point of Order, I thought that the word “lie” was not a suitable parliamentary word. While the Hon. Member, Bishop Edghill, is speaking, I kept hearing the Hon. Member Ms. Amna Ally shouting “lie” and the biggest voice came from Minister Jordan at the back. These words that are un-parliamentary only seem to be applicable when we are speaking. It is late in at night and we have things which we wish to say.

**Mr. Speaker:** Hon. Member, Ms. Teixeira, you were drawing to the attention of the Speaker some comments which were made.

**Ms. Teixeira:** Yes, Sir, and constantly too.

**Mr. Speaker:** I thank you. Hon. Members, I do not know that we can continue like this. The night is long, but we are getting along. Let us get along without rancour and without the need to cause difficulty for others. It is only improper to be using that term in this House and I would ask Members not to let me have to speak about it again because then, perhaps... Do not let me speak about it again. Please proceed.

**Bishop Edghill:** Mr. Speaker, I want to speak to the process that allowed us to get to the place of bringing names to this House. It must be indicated that, while the Hon. Minister Norton had indicated that there were a number of applicants and that there was a shortlist, which is correct, apart from the shortlist, some applicants were disqualified, even before the shortlist because of what was deemed as Politically Exposed Persons (PEPs). That is important to note because, if we are going to put names to the Parliament for persons to be appointed to such a high office in our land... They were first of all asked to pronounce on themselves, based on the Financial Action Task Force (FATF) Regulations and in the construct of the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act, if they deemed themselves to be Politically Exposed Persons. Very eminently qualified persons were deemed ineligible because of that consideration. One person could not have even gone forward because their brother is a Member of this National Assembly. It was that kind of process that followed.

We spent considerable amount of time interviewing the various candidates and there were criteria established by way of score sheets. When the interviews were finished for the position of Director, we were asked to name the top two candidates. This is important to note for the purpose of consistency, when we come to the Deputy Director. Based on that agreed and established principle, all Members of the Committee submitted the names of their top two named candidates. We then deliberated and agreed as to who was ranked number one and who was ranked number two. We also agreed to a process of due diligence. At the conclusion of that process, the number one ranked candidate was disqualified because of the police report on the named partner. As a result of that, the number two ranked candidate was agreed upon to be named as the Director of the FIU. We find that to be acceptable and from our side, we concur that that decision was made by consensus at the end of the deliberations of the Committee on Appointments.

Now, for the position of Deputy Director of the FIU and that was where there was a difference. Nine candidates were shortlisted; interviews were conducted using the same



criteria that were established by way of score sheets; and we were all asked to name our top three candidates. Six Members of the Committee had named Ms. Alisa Williams, the current Legal Officer at the Financial Intelligence Unit, among their top three candidates.

*12.12 a.m.*

Two members of the Committee named Mr. Abiose Thomas in their top three candidates for the position of Deputy Director of the FIU. So we had a case where, at the time of the deliberations, after the interviews, for Deputy Director, six members participated fully because the Hon. Minister Patterson had an engagement and he had to depart and the Hon. Ms. Amna Ally was absent from that session. So the six members who participated fully, named Ms. Alisa Williams as one of the top three ranked candidates and two named Mr. Abiose Thomas as among the top three candidates.

The fact that we had two Members who were absent, we had agreed that there would be further deliberations when the other Members were present. At the subsequent meeting of the Committee, when this matter was discussed, it would have appeared that there was a *somersault*. Ms. Alisa Williams, who six members of the Committee had found to be suitable, to have had the experience and who had scored very highly, seemed to have disappeared off the radar and a candidate that only had two nominations was considered to be the preferred candidate.

I brought this out to indicate that, while objective criteria were being used for scoring that would have led to nominations, it would appear that, when it came to the position of the Deputy Director, other considerations came into the picture. It is at that point that we would like to indicate that, while we support the position of the Director, we do not support the position that is being recommended by this report, for the Deputy Director and the motion for the Deputy Director because the process that was used was not one that was consistent with the process that was used for naming the Director.

We are not very pleased to have to come to this House to express disagreement coming out of the Committee, as it relates to the Deputy Director. We believe that these positions are highly important and it would have been best served if agreement could have been met in the Committee. The fact that other considerations, apart from what was on our score sheets, entered into the discussion, is the reason why we have to raise it on the floor of the House, tonight.

What is of greater concern is that we are advancing this nomination or these nominations because they are two, in an environment where there is no Anti-Money Laundering and the Countering of the Financing of Terrorism Authority – the Authority is not in place? It is like putting the *cart before the horse* because we do not have an Authority and the FIU is to function in the construct of an Authority. We would hope that very soon we would be able to have that Authority going. I am sure that we will be coming back to this House with a report and I hope that, at that time, we would not have to have a minority view, but that there would be consensus on the way forward.

From a personal standpoint, and I think from the Committee, appearing before us, both for the positions of Director and Deputy Director, were some of the finest Guyanese that we would have met and other interested parties who were non-Guyanese as well. I would agree that, meeting some of the finest individual and listening to them on what they brought to the table would always pose a difficulty in making a final consideration. That is why, the Minutes of our Committee will show that, even before we started meeting anybody, we had established the criteria under which we would judge them, how we would score, how many marks would be allocated to each stated objective or criteria and then we would tally.

So it is with that sense of disappointment that we state our case that, we are not pleased and we are not in agreement with the named person for the Deputy Director. As is the case, the majority vote will go and we understand that. But Sir, the House and the Nation need to know that this country is being robbed of one of the finest professionals who currently served and who is well-placed in the FIU to serve as its Deputy Director.

I sat in this House and when the question was put to the Hon. Attorney General, Mr. Basil Williams, in one of the debates, he said that there was a functioning FIU and that, as a matter of fact, the international authorities were corresponding with the FIU. Who was the person that was running the FIU? The same young woman, who got six nominations from the six persons who interviewed all of the candidates and scored, but still she is not suitable enough to be named as the Deputy Director. There can be no explanation as to indicate, up until now, why she was not considered suitable for the job.

It is with this position that I would like to ask that this report be corrected, at No. 43 because the Committee did not unanimously adopt the motion. That is an erroneous statement. We would also like to put on record that, while we support the nominee on the motion for the position of Director, we do not support the position of the Deputy Director because it did not

come out of a process where due process and agreed criteria were used other considerations came into the picture.

Thank you very much Sir. *[Applause]*

**Minister of Public Infrastructure, [Mr. Patterson]:** Thank you Mr. Speaker, Colleagues and all. I rise in support of both the motion and the report that are laid before the House on the appointment of the Director and Deputy Director of the FIU.

Sir, before I proceed any further, allow me on my personal behalf, to congratulate the Clerk of the Committee, on having given birth to her baby boy yesterday - safe delivery, obviously. It probably helped that the Minister of Public Health is the Chairman of the Committee.

Sir, I thought, until the previous Speaker spoke, that it was a un-contentious motion and that we had dispensed of all the mystery and un-comfortableness of this motion and the positions in the Committee on Appointments, where we went through.

As the Chairman said, we met 14 times. The advertisements were out in the public, persons had applied, and as the previous Speaker and the Chairman, mentioned we had 17 candidates for both positions.

Sir, let me tell you a few things. The first one, when the 17 applications came in and the Clerk and the Committee had summarised the list of applicants for the position of the Director, at the very next meeting, the Member who previously spoke, got up and moved a Point of Order accusing the Clerk and the Committee of “ducking” one of the applications.

**Bishop Edghill:** Mr. Speaker, on a Point of Order. That is a totally untrue statement. The Minutes would reflect that I requested that a check be made, that all of the applicants in the categories of the various vacancies be checked to ensure that they were properly sorted and placed. The record would show that, when that was done, corrections had to be made. Thank you very much Sir.

**Mr. Speaker:** I thank the Hon. Member. Hon. Minister, please proceed.

**Mr. Patterson:** Checks were made because certain applicants and I do not know how the Hon. Member was made aware of it, but persons expressed a feeling that a certain applicant’s name was not on the sheet for the position of Director. This proved unfounded because the applicant that applied for the position of the Deputy Director had submitted an open

application. So that obviously put a spoke in the wheel of our smooth running of the interview process, even before we started shortlisting applicants, but we proceeded on as we were because we had a mandate.

*12.27 a.m.*

I know that we cannot use certain words. I know Mdm. Teixeira, the Hon. Member, had objected. May I use the words economical with the truth? Certain statements, I find, were economical with the truth.

One: Article 43...both the motion and the Report were unanimously adopted. Maybe, the Hon. Member overlooked the fact that the motion was vetted by Madam Teixeira and I. **[Ms. Teixeira: No.]** Okay. Mdm. Teixeira vetted the motion and I supported her. It was approved. We went through it line by line and word by word so I do not know where the matter of the Committee not unanimously adopting the motion came from.

On the question of the Report, the Committee had tasked both of us to look at the Report and the motion. Mdm. Teixeira circulated her comments and I circulated mine. I did indicate, via email, that I was in agreement with both of our proposed changes. However, at the 14<sup>th</sup> meeting, on reflection, which I do think I have the option to do. **[Ms. Manickchand: It was on the instruction of Ms. Ally.]** Well, if you want to say it was upon instruction. At the 14<sup>th</sup> meeting, I felt uncomfortable because the original draft of the motion is something which the Hon. Member Mr. Lumumba is quite upset with. It named all of the persons who were shortlisted and all of them who were unsuccessful. I moved the point that it was not the right thing to do. It lent nothing to the Report. It named the first ranked person. I thought that that was not in good taste. It named persons who were interviewed and were unsuccessful. We had a lovely young man who applied and was a very excellent applicant but, during the interrogation, he revealed that he had not disclosed to his wife that he had applied for the job. I do not think that it was right for us to put forward a report which would reveal to his wife that he had applied for a job and he had been unsuccessful. With the help of everyone, that is why I know the Report was adopted unanimously, it was amended and tabled was the amended Report from our 14<sup>th</sup> meeting.

The Hon. Member has a point that the appointment of the Director and the Deputy Director is a priority and we made it a priority. This is no secret. I do not know why he is lamenting on this. He was a bit economical with the truth, once again, on the question of the Director and

Deputy Director. Each Member, during the interview, and he is correct that we had a score sheet, was asked to list their top three persons. This is the point that I want to make. He lamented about some persons getting more nominations than others.

When it came to the selection of the Director, and I am uncomfortable in saying this, the person appointed as Director was not the first or the second choice based on the nominations. But we had deliberations and discussions. We worked it out by everybody selecting their pros and cons and then we decided on the top two. That is the process we had, Sir. Irrespective of how the nominations came after our first round, each person had the opportunity to interrogate and put forward the pros and cons of the candidate and that is how we arrived at our final selection.

For the Hon. Member to come here and say which applicant got 10 points and which applicant got eight points and the principle that we used is not... The record of the minutes will reflect that not because someone made the cut...After deliberations, we arrived at who the Director and the Deputy Director would be.

The Hon. Member even sought to forget that the Hon. Member Ms. Veerasammy was not there when the Deputy Director listing was done. Therefore, to get up and say that this person got the most and so forth...Only six Members were there in a nine-Member Committee. It was agreed that we would wait until the full membership was there. When the full membership was there, we did the exact thing that we had done for the selection of the Director. We deliberated the pros and cons of the various applicants and in the end we had two persons to decide between.

The Government felt that one was better than the other. The Opposition felt that one was better than the other. In the effort to move the process forward, the Chairman called for a vote. There was nothing sinister about it. **[Mr. Bulkan: It was a democratic principle.]**

It was a democratic principle. The Hon. Member cannot come here and claim anything about the initial nominations because the record would show that we did the exact same things with the Director. The person who ended up being the second ranked person received the third highest number of nominations. Yet, he never ascribed anything sinister to that process. Sir, you would have to wonder - and I do wonder - why the nine Members who were tasked with arriving at two nominees for certain positions cannot accept a democratic process.

I am uncomfortable because I think that there are some things we should hold sacred in an interview process. There were deliberations behind closed doors. It should not be mentioned here. The Hon. Member even tried passing off inaccurate information on the person that is now proposed to be Deputy Director.

*Ms. Teixeira stood.*

**Mr. Patterson:** Yes, Mdm. Teixeira, you can get up to object but I would not.

**Mr. Speaker:** Hon. Member Ms. Teixeira, are you standing on a point of order?

**Ms. Teixeira:** Yes, Sir. The Hon. Member is again casting aspersions on another Hon. Member. It is not true. I have sat and listened to the Hon. Member trying to find a different way to say that a person is lying, but he has also done it again, Sir.

**Mr. Speaker:** Hon. Members, I have listened to the debate and to the discussion and I wondered the benefit, which is flowing from the debate, of the details which took place behind closed doors. The Hon. Members are the best arbiters of this. It seems to me that it does not contribute to the understanding of the Report nor help us to understand what took place in the Committee. I think it is unfortunate that we are all going down a road which cannot help us here. It is unfair to the people who are not here. It is as if they are victims too. They are being held hostages to us here. I do not know that the National Assembly would wish to do this.

May I suggest that we try to keep within the bounds of some level of propriety? What took place at the Committee on Appointments really should to be left there, except for the general statements which the House should benefit from. If there are some things in particular that Hon. Members would wish to know of what took place there, Hon. Members are free to comment on it. We are being invited to be a part of the process in the Committee of Selection and yet it was behind closed doors. Could we try for the rest of the evening, Hon. Members? Proceed, Minister.

**Mr. Patterson:** Mr. Speaker, I cannot agree with you more.

**Mr. Speaker:** Hon. Minister, I thank you for the agreement, but please let us proceed.

**Mr. Patterson:** The only reason that I have to say these things it is because I do not want this House to be misled. I do not want the people to think that this Government was party to

anything that was not transparent. That is the only reason, Sir. We have to set the record straight. I think the point has been made. I would not go down that road.

I only want to mention one last thing. I agree 100 per cent with the Hon. Member that the Authority has to be established and we have started a process. We are awaiting responses from all of the entities that we have invited to submit eligible nominees for the Authority. Some of them have responded and some have not. We do, by law, have to take their responses into consideration before we could appoint the Authority. I do hope that, by our next meeting, the 15<sup>th</sup> meeting of the Committee on Appointments, we would have the full submission from the various entities which are the Private Sector Commission, the Institute of Chartered Accountants of Guyana and the Hindu, Muslim and Christian associations.

**[Bishop Edghill: They have nothing to do with it.]** You are right. It is not the Hindu and other associations. It is the Institute of Architects and the Guyana Association of Bankers that have to submit their nominations and we would consider them as soon as we get them.

I do not want to go back to any issue but I will always refute any claims that this Government would ever seek to be in any process that is not transparent. We believe in democracy and a democratic process was had for the appointments. With those few words, I would like to support the motion and commend it to this House. *[Applause]*

**Bishop Edghill:** Mr. Speaker, I would like to make a clarification. I would like to indicate, in keeping with your guidance that you gave earlier, that the comment made by Hon. Minister about my interventions in the Committee is that I brought to the attention to the Committee...

**Mr. Speaker:** Hon. Member, did he say something that...

**Bishop Edghill:** Yes, Sir.

**Mr. Speaker:** Could you correct that, please?

**Bishop Edghill:** I am correcting that, Sir. I brought to the attention of the Committee information that was provided by a candidate, who had attended an interview, which I had known not to be correct. I think I had a responsibility as a Member of the Committee to do that.

**Mr. Speaker:** I thank the Hon. Member for his statement.

**Ms. Teixeira:** The Committee on Appointments was faced with a major challenge with the implementation of the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act 2015. Mr. Greenidge would know that I have labelled those amendments, particularly on the governance issues, particularly to do with the Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) Authority and burdening the Committee on Appointments with the hiring of the Director, Deputy Director, Accountant and Lawyer.

*12.42 a.m.*

In fact, it is quite an onerous task in that no parliamentary committee is designed to interview and hire people. We are not competent in that area. We are politicians and Members of Parliament (MP) and we are all politically exposed, according to the Anti-Money Laundering and Countering the Financing of Terrorism legislation and the Financial Action Task Force (FATF). The issue was to try to find a process: how should we do it? One of the challenges, in the beginning, was to understand what was meant by a “politically exposed person” by the FATF definitions and guidelines and the AML/CFT Act.

Secondly, it was the process of putting out the criteria, terms of reference, job description, *et cetera*. That was a whole learning curve for the Committee. Process is important in terms of a parliamentary committee being able to ascertain and make judgements on people that it is interviewing, in an hour, for what are incredibly important posts such as the Director and Deputy Director of the Financial Intelligence Unit (FIU). Both in the Anti-Money Laundering and Countering the Financing of Terrorism Act and in the FATF and the Caribbean Finance Action Task Force (CFATF), the issue of the independence and the autonomy of the FIU itself, from non-interference, and being insulated from contamination by “politically exposed persons” is basically what it is all about. In the Committee, this was a challenge for us. I am not interested in getting into details. I want to deal with process.

Before I go into some further points, let me just point out that some amendments would have to be made to the motion. There is contradiction between the third “AND WHEREAS” clause and the fourth “AND WHEREAS” as distinct from the motion which Mr. Patterson and I worked together on. The third “AND WHEREAS” clause states:

“AND WHEREAS the Committee on Appointments after deliberations reached consensus and recommended Mr. Matthew Edward Hugh Langevine”.



It should go on to state that he was recommended “as the suitable candidate for the position of Director in accordance with the Anti-Money Laundering and Countering the Financing of Terrorism ( Amendment) Act 2015”.

The next paragraph should state:

“AND WHEREAS the Committee on Appointments after deliberations, by a majority, recommended Mr. Abiose Thomas as Deputy Director of the Financial Intelligence Unit (FIU) in accordance with the Anti- Money Laundering & Countering the Financing of Terrorism (Amendment ) Act 2015, Act No. 1 of 2015.”

In actual the motion, two paragraphs state that both persons were supported by consensus and a next paragraph states that both persons were recommended by a majority. These two paragraphs are incorrect and I am sure that Mr. Patterson would recognise that I am correct, although Mr. Lumumba is distracting him.

I would like to ask that the two paragraphs be corrected and I could lay them at a particular point. It is very clear that, in the Committee, we had reached consensus in relation to the Director of the FIU. We did not reach consensus in relation to the Deputy Director. It was done by majority. The motion cannot state in the two paragraphs that the two persons were both agreed to, one by consensus and one by majority. There is a mistake in the motion that has come before the House.

The second issue was the process of being able to determine whether the persons were politically exposed. We asked people and they said that they were not and then we discovered, afterwards, that some were. We warned people in the advertisements and the interviews that we reserved the right to conduct a due diligence exercise because of the nature of the posts. This made a number of us feel uncomfortable because, again, we are politicians and Members of Parliament and not human resources managers or personnel officers. This was not a regular personnel officer interview, as we soon found out. Ask Minister Ferguson. We all learnt in the beginning that we were looking for someone different; someone to be able to manage the integrity, the confidentiality, the investigative and other arms of the FIU.

We said a lot of things. A lot of things are said in the committee. I agree with my Hon. Member that, in committee, we share information. We had to share information on the different persons that we were examining.

When we came to conduct the interviews for the Director of the FIU, we were pleased - and I want to support Bishop Edghill on this - that there were some very fine people that we interviewed for the positions of Director, Deputy Director and Accountant. When dealing with the Director and the Deputy Director, by a process of elimination in some cases and, regrettably, in the case of one person, that person was not able to be considered because of the due diligence that was done on that person. We had to learn as we went on along with this process.

I think it would be unfair for Members of the Committee to feel that we do not have the right to speak in committee without it becoming a tattletale outside. However, what is the record of the Committee is what is important; not "he says and she says" story.

The record of the Committee is that, in the Committee, we (that is the Parliamentary Opposition) were confronted with a candidate who had applied for Deputy Director who, when we looked at all the applicants, in our view, was the most qualified for the position. That person we felt, strongly, was the person qualified to be the Deputy Director.

We had reached consensus on the Director. We are not disputing, on this side of the House, the person named as the Director. There was a consensus. The number one person, who we all agreed to, did not pass the due diligence test. The number two and three persons were very close and the decision was made based on qualifications. The Hon. Members made it appear as though we were horse trading; we were not horsing trading. We had a long discussion and we came to a decision.

If the view on the other side is that there was some horse trading and a *tit for tat*, you gave the Director so you have to get back the Deputy, I do not know about any arrangement like that and I was not a part of that arrangement. I am telling you it straight. I have heard Members on the other side say that the Opposition got this and it got that, as if it were some concession being made. I know that some of the Members of the Committee do not hold that position, particularly those on the other side, but who would not speak. Only some people in the Committee would speak. We made a decision on the Director and we are supporting the name of that person for Director. Based on what we had and what we did, we feel that that is the best that we could have at this point.

Regarding the Deputy Director, we feel strongly that a great injustice has been done. A person who had been in the FIU and who went through training in the CFATF and the FATF

was not considered. Sir, we are in an awkward position because the law states - and we are supposed to obey the law – that we must come to the House with the recommendations. Section 8 of the Anti-Money Laundering and Countering Financing of Terrorism (Amendment) Act states:

“The National Assembly shall –

(a) by a simple majority; and

(b) on the recommendation of the Parliamentary Committee on Appointments, appoint the Director and the Deputy Director of the Financial Intelligence Unit”

When we reach consensus, there is no need for this. If we had reached consensus or we had reached agreement on majority, we would not have been in this.

Mr. Speaker, we did not. Telling tales out of school is not a good thing. We had 14 meetings; in December, one meeting; in January, one meeting; in February, one meeting; in March, one meeting. Then we started to buck up. In April, we had two meetings; in May, we had four meetings because we were conducting interviews; in June, we had one meeting; in July, we had one meeting. In between a lot of travelling was going on.

The point is that we had to be regaled in the press with accusations by the Attorney General that it was the Opposition that was holding back this whole process. We, on this side of the House, feel awkward too going into certain details. We do not wish to cause embarrassment to the persons. One was voted by majority and one was not supported by the majority. This parliamentary Committee has to be transparent and accountable too. We are caught in between. Hon. Minister Mr. David Patterson said that all of these names were there in the detailed one that was prepared by the Clerk and we must take out these things. We were not comfortable with that either but we went along with it.

Where the Report states that we adopted the Report, we adopted the Report because it factually represents what happened in the Committee. It does not mean by that by adopting the Report we are adopting the motion. The motion is a different thing. The Report is factually an account or chronicle of what happened.

How were we to deal with the fact that there was a difference of views to do with two candidates? One candidate has being in that Unit and has played an important role. By the

way, for this House and Mr. Greenidge, who made these amendments in the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act, that person has been, according to the Hon. Member when we discussed the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Bill in May, acting as the FIU Director. Why was that person acceptable to be acting as the FIU Director, although there was no appointment, but when it came to the position of Deputy Director... It is an injustice, Sir.

There are many things that could be spoken about, but the process of trying to get this...I am hearing talk about it being democratic. A decision that some people do not agree with could be reached, but was the process transparent? As of up to 20<sup>th</sup> June, 2016, the process was transparent and then we had the vote and it became a different story. It was a big vote, instead of us trying, as a Committee, to reach consensus of any kind. It was just put to a vote. So, we have no other recourse. Where else could we go if not to the House?

We believe that the Report, even with the amendments, chronicles correctly and shows, at paragraph 35, that we had a vote and the result was five to four. The earlier decision of the Committee is in the Minutes; the Minutes go with the Report.

Mr. Speaker, we ask for you to be able to put the amendment so that the motion would not look amusing to someone from the outside in that we are appointing both the Director and the Deputy Director in one paragraph by consensus and, in the other paragraph, we are appointing both Deputy Director and Director by majority. If we could have that corrected, the motion would then more accurately represent what is in the Report.

*12.57 p.m.*

We have made our position clear on the grounds on which we differ from the majority in the Committee as to why we do not support the Deputy Director that was selected. The Anti-Money Laundering Authority is still not in place, as a number of Members have said, and we hope that it will be.

Secondly, in relation to the selection of the Accountant and the Lawyer, we have to continue our efforts. Two persons were found to be “politically exposed” and so we have to start again. In the case of one person, we actually reached consensus and offered that person a job but the person rejected it because the salary level was lower than what the person was already

receiving. We have to continue our efforts to find an Accountant and a Lawyer. Thank you very much, Mr. Speaker. [*Applause*]

**Dr. Norton (replying):** The Principal Act is amended by the substitution for section 8 of the following section as section 8:

“8 (1)The National Assembly shall –

(a) by a simple majority; and...”

That is all we needed - a simple majority.

“(b) ...on the recommendation of the Parliamentary Committee on Appointments, appoint the Director and the Deputy Director of the Financial Intelligence Unit”

Nothing about consensus is mentioned. [Ms. Teixeira: Read it.] I just read it.  
[Ms. Teixeira: Read page two of it.] It seems as though if you do not agree then somehow we are not getting consensus.

When we look at the Report in paragraph 35 it is clearly stated there that, in the case of the Director, there was consensus, while the Deputy Director was decided on a vote. Hence, the result is the names of those two persons being brought to the National Assembly. I can now ask that the Report be adopted and that the motion be approved.

*Motion proposed.*

**Ms. Teixeira:** Mr. Speaker, could I move the amendments? The Hon. Members do not seem to be following what are the amendments that need to be made. I need to go through them slowly with them.

**Mr. Speaker:** Hon. Member, the motion is proposed. From the debate, it is clear that there needs to be some improvement in the two “And Whereas” clauses which precede the resolved clause. The first “And Whereas” clause...

**Ms. Teixeira:** It is not the first; it is the third.

**Mr. Speaker:** I am dealing with page two of the document. If all of us have this document and we turn to page two of the document, we would see that in the first “And Whereas” clause, by consensus, both candidates - one for the Director’s position and one for the Deputy

Director's position - were recommended by consensus. In the second "And Whereas" clause it states that it was done, after deliberations, by majority. There needs to be an amendment to the first and second "And Whereas" clauses. Hon. Members, I await your proposal on it.

**Ms. Teixeira:** Mr. Speaker, the second "And Whereas" clause on page two of the notice of the motion that has been circulated, it would read therefore as follows:

"AND WHEREAS the Committee on Appointments after deliberations reached consensus and recommended Mr. Matthew Edward Hugh Langevine as the suitable candidate for the position of Director in accordance with the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act 2015.

AND WHEREAS the Committee on Appointments after deliberations, by majority, recommended Mr. Abiose Thompson as the Deputy Director of the FIU in accordance with the Anti-Money Laundering and Countering of Terrorism (Amendment) Act 2015".

That is how they would relate. One was by consensus and the other was by majority.

**Mr. Speaker:** I thank the Hon. Member.

**Dr. Norton:** The corrections I would like to make are:

"AND WHEREAS the Committee on Appointments after deliberations recommends Mr. Matthew Edward Hugh Langevine and Mr. Abiose Thomas as the suitable candidates for the positions of Director and Deputy Director, respectively, in accordance with the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act 2015."

**Mr. Ali:** Straighten out the issue of consensus.

**Mr. Jordan:** The Committee recommended it.

**Mr. Speaker:** Hon. Minister, before you take your seat, there would need for treatment of the paragraph immediately following that one.

**Ms. Teixeira:** Mr. Speaker, can I help the Minister out?

**Dr. Norton:** Mr. Speaker, there would be no changes in the last "And Whereas" clause.

**Mr. Speaker:** Hon. Minister, the last “And Whereas” clause reads “by majority”. My understanding, from the discussion which took place here, is that one was by majority and one was by consensus, but the Speaker would be guided by what the House decides.

**Dr. Norton:** Mr. Speaker, the last “And Whereas” clause is:

“AND WHEREAS the Committee on Appointments after deliberations recommended Mr. Matthew Edward Hugh Langevine and Mr. Abiose Thomas as the Director and Deputy Director of the Financial Intelligence Unit (FIU).”

**Mr. Nagamootoo:** If I could be of assistance, I think I understand, from the discussion and the points raised by the Hon. Member Ms. Gail Teixeira, that the first “And Whereas” clause is:

“The Committee on Appointment after deliberations reached consensus and recommended Mr. Matthew Edward Hugh Langevine as a suitable candidate for the position of Director.”

So, delete “and Mr. Abiose Thomas”, the “s” from the word candidate and “and Deputy Director respectively”.

So, that fixes the issue of consensus and the second remains as it is because the second was by majority.

**Hon. Members:** Mr. Langevine’s name has to be taken out from the second “And Whereas” clause.

**Mr. Nagamootoo:** Remove the name of Mr. Matthew Langevine and leave the name of Mr. Abiose Thomas as Deputy Director.

**Mr. Speaker:** The word “Director” should be deleted from the third line.

**Mr. Nagamootoo:** Yes. What is important is that the resolved clause remains intact, that it was by resolution of the National Assembly.

**Mr. Speaker:** I thank the Hon. Prime Minister. Hon. Minister, may I ask you to now tell us the contents of the motion? Would it be accurate to say that the first part of the motion remains unchanged?

**Dr. Norton:** The first part of the motion remains unchanged and we are changing the last two WHEREAS clauses.

“AND WHEREAS the Committee on Appointments after deliberation reached consensus and recommended Mr. Matthew Edward Hugh Langevine as the suitable candidate for the position of Director in accordance with the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act 2015.

WHEREAS the Committee on Appointments after deliberation, by majority, recommended Mr. Abiose Thomas as the Deputy Director of the FIU in accordance with the Anti-Money Laundering and Countering of Financing of Terrorism (Amendment) Act 2015/Act No. 1 of 2015.”

**Dr. Norton:** That is the amendment, Mr. Speaker.

**Mr. Speaker:** I thank the Hon. Member. Are we to assume that the resolve clauses remain unchanged?

**Dr. Norton:** Yes, Mr. Speaker.

*Amendment put and agreed to.*

*Motion carried.*

**Mr. Speaker:** Hon. Members, this brings us to the end of our labours for today.

## **BIRTHDAY GREETINGS**

**Mr. Ali:** I have some very important business, Mr. Speaker, if you may allow me three seconds. I would just like to take this opportunity, with your permission, to wish an outstanding Member of this National Assembly a happy birthday and many years to come with good health, strength and continued success. That Hon. Member is our Chief Whip, Ms. Gail Teixeira.

*1.12 a.m.*

**Mr. Nagamootoo:** Mr. Speaker, I would also like to take this opportunity, on behalf of all the Members on the Government benches, to wish the Hon. Member, Gail Teixeira, a happy birthday and many happier birthdays to come. She has been a remarkable Chief Whip. I do not know what we will do without her in this House.



## **ADJOURNMENT**

**Mr. Nagamootoo:** I move that this House be adjourned until 4<sup>th</sup> August, 2016.

**Mr. Speaker:** Hon. Members, the House stands adjourned until 4<sup>th</sup> August, 2016.

*Adjourned accordingly at 1.13 a.m.*